

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1932

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## AN ACT

To provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Deficit Reduction Om-  
5        nibus Reconciliation Act of 2005”.

**1 SEC. 2. TABLE OF CONTENTS.**

**2** The table of contents for this Act is as follows:

- Sec. 1. Short title.  
Sec. 2. Table of Contents.

**TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

- Sec. 1001. Short title.

**Subtitle A—Commodity Programs**

- Sec. 1101. Reduction of commodity program payments.  
Sec. 1102. Forfeiture penalty for nonrecourse sugar loans.  
Sec. 1103. Cotton competitiveness provisions.  
Sec. 1104. National dairy market loss payments.  
Sec. 1105. Advance direct payments.

**Subtitle B—Conservation**

- Sec. 1201. Conservation reserve program.  
Sec. 1202. Conservation security program.  
Sec. 1203. Environmental quality incentives program.

**Subtitle C—Miscellaneous**

- Sec. 1301. Initiative for future agriculture and food systems.

**TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

**Subtitle A—Merger of the Deposit Insurance Funds**

- Sec. 2001. Short title.  
Sec. 2002. Definitions.  
Sec. 2003. Merger of BIF and SAIF.  
Sec. 2004. Establishment of the Deposit Insurance Fund.  
Sec. 2005. Technical and conforming amendments to the Federal Deposit Insurance Act.  
Sec. 2006. Other technical and conforming amendments.  
Sec. 2007. Effective date.

**Subtitle B—Deposit Insurance Modernization and Improvement**

- Sec. 2011. Short title.  
Sec. 2012. Changes to Federal deposit insurance coverage.  
Sec. 2013. Designated reserve ratio.  
Sec. 2014. Assessment credits and dividends.  
Sec. 2015. Assessments-related records retention and statute of limitations.  
Sec. 2016. Increase in fees for late assessment payments.  
Sec. 2017. Regulations required.  
Sec. 2018. Studies of potential changes to the Federal deposit insurance system.  
Sec. 2019. Effective date.

**Subtitle C—FHA Asset Disposition**

- Sec. 2021. Short title.
- Sec. 2022. Definitions.
- Sec. 2023. Appropriated funds requirement for below market sales.
- Sec. 2024. Up-front grants.
- Sec. 2025. Authorization of appropriations.

#### Subtitle D—Adaptive Housing Assistance

- Sec. 2031. Short title.
- Sec. 2032. Adoptive housing assistance for disabled veterans residing temporarily in housing owned by a family member.
- Sec. 2033. GAO reports.

### TITLE III—COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

- Sec. 3001. Short title.
- Sec. 3002. Analog spectrum recovery; hard deadline.
- Sec. 3003. Auction of recovered spectrum.
- Sec. 3004. Supplemental license fees.
- Sec. 3005. Digital Transition and Public Safety Fund.
- Sec. 3005A. Communication system grants.
- Sec. 3006. Essential air service program.

### TITLE IV—ENERGY AND NATURAL RESOURCES

- Sec. 4001. Oil and gas leasing program.

### TITLE V—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

- Sec. 5001. Technical corrections to SAFETEA-LU.

### TITLE VI—COMMITTEE ON FINANCE

- Sec. 6000. Amendments to Social Security Act.

#### Subtitle A—Medicaid

#### CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS UNDER MEDICAID

- Sec. 6001. Pharmacy reimbursement.
- Sec. 6002. Increase in rebates for covered outpatient drugs.
- Sec. 6003. Improved regulation of authorized generic drugs.
- Sec. 6004. Collection of rebates for certain physician administered drugs.

#### CHAPTER 2—LONG-TERM CARE UNDER MEDICAID

- Sec. 6011. Reform of Medicaid asset transfer rules.
- Sec. 6012. State long-term care partnerships.

#### CHAPTER 3—ELIMINATING FRAUD, WASTE, AND ABUSE IN MEDICAID

- Sec. 6021. Enhancing third party recovery.
- Sec. 6022. Limitation on use of contingency fee arrangements.
- Sec. 6023. Encouraging the enactment of State False Claims Acts.
- Sec. 6024. Employee education about False Claims Recovery.
- Sec. 6025. Prohibition on restocking and double billing of prescription drugs.
- Sec. 6026. Medicaid Integrity Program.

## CHAPTER 4—STATE FINANCING UNDER MEDICAID

- Sec. 6031. Reforms of targeted case management.
- Sec. 6032. Temporary Federal matching payments for Federal assistance.
- Sec. 6033. Managed care organization provider tax reform.
- Sec. 6034. Inclusion of podiatrists as physicians.
- Sec. 6035. DSH allotment for the District of Columbia.
- Sec. 6036. Demonstration project regarding Medicaid reimbursement for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.
- Sec. 6037. Limitation on severe reduction in the Medicaid FMAP for fiscal year 2006.
- Sec. 6038. Extension of prescription drug rebates to enrollees in Medicaid managed care organizations.
- Sec. 6039. Extension of the Medicare Part A and B payment holiday.
- Sec. 6039A. Sense of the Senate.
- Sec. 6039B. Authority to continue providing certain adult day health care services or medical adult day care services.
- Sec. 6039C. Demonstration project regarding Medicaid coverage of low-income HIV-infected individuals.
- Sec. 6039D. Additional increase in rebate for single source and innovator multiple source drugs.

## CHAPTER 5—IMPROVING THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS

## SUBCHAPTER A—FAMILY OPPORTUNITY ACT

- Sec. 6041. Short title of subchapter.
- Sec. 6042. Opportunity for families of disabled children to purchase Medicaid coverage for such children.
- Sec. 6043. Demonstration projects regarding home and community-based alternatives to psychiatric residential treatment facilities for children.
- Sec. 6044. Development and support of family-to-family health information centers.
- Sec. 6045. Restoration of Medicaid eligibility for certain SSI beneficiaries.

## SUBCHAPTER B—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

- Sec. 6051. Rules for availability, redistribution, and extended availability of allotments for fiscal years 2003, 2004, and 2005.
- Sec. 6052. Authority to use up to 10 percent of fiscal year 2006 and 2007 allotments for outreach.
- Sec. 6053. Prohibition against covering nonpregnant childless adults with SCHIP funds.
- Sec. 6054. Continued authority for qualifying States to use certain funds for Medicaid expenditures.
- Sec. 6055. Grants to promote innovative outreach and enrollment under Medicaid and SCHIP.

## SUBCHAPTER C—MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION

- Sec. 6061. Money Follows the Person Rebalancing Demonstration.

## CHAPTER 6—OPTION FOR HURRICANE KATRINA DISASTER STATES TO DELAY APPLICATION

Sec. 6071. Option for Hurricane Katrina disaster States to delay application.

#### Subtitle B—Medicare

- Sec. 6101. Improvements to the Medicare-dependent hospital (MDH) program.
- Sec. 6102. Reduction in payments to skilled nursing facilities for bad debt.
- Sec. 6103. Two-year extension of the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.
- Sec. 6104. Prohibition on physician self referrals to physician owned, limited service hospitals.
- Sec. 6105. Minimum update for physicians' services for 2006.
- Sec. 6106. One-year extension of hold harmless provisions for small rural hospitals and sole community hospitals under the prospective payment system for hospital outpatient department services.
- Sec. 6107. Update to the composite rate component of the basic case-mix adjusted prospective payment system for dialysis services.
- Sec. 6108. One-year extension of moratorium on therapy caps.
- Sec. 6109. Transfer of title of certain DME to patient after 13-month rental.
- Sec. 6110. Establishment of Medicare value-based purchasing programs.
- Sec. 6111. Phase-out of risk adjustment budget neutrality in determining the amount of payments to Medicare Advantage organizations.
- Sec. 6112. Elimination of Medicare Advantage regional plan stabilization fund.
- Sec. 6113. Rural PACE provider grant program.
- Sec. 6114. Waiver of part B late enrollment penalty for certain international volunteers.
- Sec. 6115. Delivery of services at federally qualified health centers.
- Sec. 6116. Technical correction regarding purchase agreements for power-driven wheelchairs.
- Sec. 6117. Medicare coverage of ultrasound screening for abdominal aortic aneurysms; national educational and information campaign.
- Sec. 6118. Improving patient access to, and utilization of, colorectal cancer screening under medicare.
- Sec. 6119. Coverage of marriage and family therapist services and mental health counselor services under part b of the medicare program.
- Sec. 6120. Quality measurement systems amendments.

### TITLE VII—COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

#### Subtitle A—Education Provisions

##### CHAPTER 1—EDUCATION

- Sec. 7101. Provisional grant assistance program.
- Sec. 7102. National smart grants.
- Sec. 7103. Loan limits.
- Sec. 7104. Plus loan interest rates and zero special allowance payment.
- Sec. 7105. Reduction of lender insurance reimbursement rates.
- Sec. 7106. Guaranty agency origination fee.
- Sec. 7107. Deferral of student loans for military service.
- Sec. 7108. Recovery through consolidation.
- Sec. 7109. Single holder rule.
- Sec. 7110. Default reduction program.
- Sec. 7111. Requirements for disbursements of student loans.

- Sec. 7112. Special insurance and reinsurance rules.
- Sec. 7113. School as lender moratorium.
- Sec. 7114. Permanent reduction of special allowance payments for loans from the proceeds of tax exempt issues.
- Sec. 7115. Special allowances.
- Sec. 7116. Origination fee.
- Sec. 7117. Income contingent repayment for public sector employees.
- Sec. 7118. Family contribution for dependent students.
- Sec. 7119. Family contribution for independent students without dependents other than a spouse.
- Sec. 7120. Family contribution for independent students with dependents other than a spouse.
- Sec. 7121. Regulations; updated tables.
- Sec. 7122. Simplified need test and automatic zero improvements.
- Sec. 7123. Loan forgiveness for teachers.
- Sec. 7124. Effective date.

#### CHAPTER 2—HURRICANE KATRINA HIGHER EDUCATION RECOVERY

- Sec. 7151. Short title.
- Sec. 7152. Definitions.
- Sec. 7153. Waiver authority and modifications to certain provisions of the Higher Education Act of 1965.
- Sec. 7154. General waiver authority and required consultation.
- Sec. 7155. Notice of waivers, modifications, or extensions.
- Sec. 7156. Regulatory requirements inapplicable.
- Sec. 7157. Department of Education Inspector General audit and report.
- Sec. 7158. Sunset provision.

#### Subtitle B—Pension Benefit Guaranty Corporation Premiums

- Sec. 7201. Amendments to the Employee Retirement Income Security Act of 1974.

#### Subtitle C—Higher Education Reauthorization

#### CHAPTER 1—SHORT TITLE; REFERENCES; GENERAL EFFECTIVE DATE

- Sec. 7301. Short title.
- Sec. 7302. References.
- Sec. 7303. General effective date.

#### CHAPTER 2—GENERAL PROVISIONS

- Sec. 7311. Additional definitions.
- Sec. 7312. General definition of institution of higher education.
- Sec. 7313. Definition of institution of higher education for purposes of title IV programs.
- Sec. 7314. Protection of student speech and association rights.
- Sec. 7315. National advisory committee on institutional quality and integrity.
- Sec. 7316. Drug and alcohol abuse prevention.
- Sec. 7317. Prior rights and obligations.
- Sec. 7318. Cost of higher education.
- Sec. 7319. Performance-based organization for the delivery of Federal student financial assistance.
- Sec. 7320. Procurement flexibility.

## CHAPTER 3—TEACHER QUALITY ENHANCEMENT

Sec. 7331. Teacher quality enhancement grants for States and partnerships.

## CHAPTER 4—INSTITUTIONAL AID

- Sec. 7341. Program purpose.
- Sec. 7342. Definitions; eligibility.
- Sec. 7343. American Indian tribally controlled colleges and universities.
- Sec. 7344. Alaska Native and Native Hawaiian-serving institutions.
- Sec. 7345. Native American-serving, nontribal institutions.
- Sec. 7346. Part B definitions.
- Sec. 7347. Grants to institutions.
- Sec. 7348. Allotments to institutions.
- Sec. 7349. Professional or graduate institutions.
- Sec. 7350. Authorization of appropriations.
- Sec. 7351. Technical corrections.

## CHAPTER 5—STUDENT ASSISTANCE

## SUBCHAPTER A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

- Sec. 7361. Federal Pell Grants.
- Sec. 7362. Federal TRIO Programs.
- Sec. 7363. Gaining Early Awareness and Readiness for Undergraduate Programs.
- Sec. 7364. Academic Achievement Incentive Scholarships.
- Sec. 7365. Federal Supplemental Educational Opportunity Grants.
- Sec. 7366. Leveraging Educational Assistance Partnership Program.
- Sec. 7367. Special programs for students whose families are engaged in migrant and seasonal farmwork.
- Sec. 7368. Robert C. Byrd Honors Scholarship Program.
- Sec. 7369. Child care access means parents in school.
- Sec. 7370. Learning anytime anywhere partnerships.

## SUBCHAPTER B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

- Sec. 7381. Extension of authorities.
- Sec. 7382. Federal payments to reduce student interest costs.
- Sec. 7383. Federal consolidation loans.
- Sec. 7384. Default reduction program.
- Sec. 7385. Requirements for disbursement of student loans.
- Sec. 7386. Reports to credit bureaus and institutions of higher education.
- Sec. 7387. Common forms and formats.
- Sec. 7388. Student loan information by eligible borrowers.
- Sec. 7389. Consumer education information.
- Sec. 7390. Definition of eligible lender.
- Sec. 7390A. Repayment by the Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow.

## SUBCHAPTER C—FEDERAL WORK-STUDY PROGRAMS

- Sec. 7391. Authorization of appropriations.
- Sec. 7392. Allowance for books and supplies.
- Sec. 7393. Grants for Federal work-study programs.

- Sec. 7394. Job location and development programs.
- Sec. 7395. Work colleges.

SUBCHAPTER D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

- Sec. 7401. Funds for administrative expenses.

SUBCHAPTER E—FEDERAL PERKINS LOANS

- Sec. 7411. Program authority.
- Sec. 7412. Terms of loans.
- Sec. 7413. Cancellation of loans for certain public service.
- Sec. 7414. Federal capital contribution recovery.

SUBCHAPTER F—NEED ANALYSIS

- Sec. 7421. Cost of attendance.
- Sec. 7422. Discretion of student financial aid administrators.
- Sec. 7423. Definitions.

SUBCHAPTER G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

- Sec. 7431. Definitions.
- Sec. 7432. Compliance calendar.
- Sec. 7433. Forms and regulations.
- Sec. 7434. Student eligibility.
- Sec. 7435. Statute of limitations and State court judgments.
- Sec. 7436. Institutional refunds.
- Sec. 7437. Institutional and financial assistance for students.
- Sec. 7438. National student loan data system.
- Sec. 7439. Early awareness of financial aid eligibility.
- Sec. 7440. College access initiative.
- Sec. 7441. Program participation agreements.
- Sec. 7442. Regulatory relief and improvement.
- Sec. 7443. Transfer of allotments.
- Sec. 7444. Wage garnishment requirement.
- Sec. 7445. Purpose of administrative payments.
- Sec. 7446. Advisory committee on student financial assistance.
- Sec. 7447. Regional meetings.
- Sec. 7448. Year 2000 requirements at the department.

SUBCHAPTER H—PROGRAM INTEGRITY

- Sec. 7451. Recognition of accrediting agency or association.
- Sec. 7452. Administrative capacity standard.
- Sec. 7453. Program review and data.

CHAPTER 6—DEVELOPING INSTITUTIONS

- Sec. 7501. Definitions.
- Sec. 7502. Authorized activities.
- Sec. 7503. Duration of grant.
- Sec. 7504. Postbaccalaureate opportunities for Hispanic Americans.
- Sec. 7505. Applications.
- Sec. 7506. Cooperative arrangements.
- Sec. 7507. Authorization of appropriations.

CHAPTER 7—INTERNATIONAL EDUCATION PROGRAMS

- Sec. 7601. Findings.
- Sec. 7602. Graduate and undergraduate language and area centers and programs.
- Sec. 7603. Undergraduate international studies and foreign language programs.
- Sec. 7604. Research; studies.
- Sec. 7605. Technological innovation and cooperation for foreign information access.
- Sec. 7606. Selection of certain grant recipients.
- Sec. 7607. American overseas research centers.
- Sec. 7608. Authorization of appropriations for international and foreign language studies.
- Sec. 7609. Centers for international business education.
- Sec. 7610. Education and training programs.
- Sec. 7611. Authorization of appropriations for business and international education programs.
- Sec. 7612. Minority foreign service professional development program.
- Sec. 7613. Institutional development.
- Sec. 7614. Study abroad program.
- Sec. 7615. Advanced degree in international relations.
- Sec. 7616. Internships.
- Sec. 7617. Financial assistance.
- Sec. 7618. Report.
- Sec. 7619. Gifts and donations.
- Sec. 7620. Authorization of appropriations for the institute for international public policy.
- Sec. 7621. Definitions.
- Sec. 7622. Assessment and enforcement.

#### CHAPTER 8—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

- Sec. 7701. Purpose.
- Sec. 7702. Allocation of Jacob K. Javits fellowships.
- Sec. 7703. Stipends.
- Sec. 7704. Authorization of appropriations for the Jacob K. Javits Fellowship Program.
- Sec. 7705. Institutional eligibility under the graduate assistance in areas of national need program.
- Sec. 7706. Awards to graduate students.
- Sec. 7707. Additional assistance for cost of education.
- Sec. 7708. Authorization of appropriations for the graduate assistance in areas of national need program.
- Sec. 7709. Authorization of appropriations for the Thurgood Marshall Legal Educational Opportunity Program.
- Sec. 7710. Fund for the improvement of postsecondary education.
- Sec. 7711. Special projects.
- Sec. 7712. Authorization of appropriations for the fund for the improvement of postsecondary education.
- Sec. 7713. Repeal of the urban community service program.
- Sec. 7714. Grants authorized for demonstration projects to ensure students with disabilities receive a quality higher education.
- Sec. 7715. Applications for demonstration projects to ensure students with disabilities receive a quality higher education.
- Sec. 7716. Authorization of appropriations for the demonstration projects to ensure students with disabilities receive a quality higher education.

## CHAPTER 9—MISCELLANEOUS

Sec. 7801. Miscellaneous.

## CHAPTER 10—AMENDMENTS TO OTHER LAWS

## SUBCHAPTER A—EDUCATION OF THE DEAF ACT OF 1986

- Sec. 7901. Laurent Clerc National Deaf Education Center.  
 Sec. 7902. Agreement with Gallaudet University.  
 Sec. 7903. Agreement for the National Technical Institute for the Deaf.  
 Sec. 7904. Cultural experiences grants.  
 Sec. 7905. Audit.  
 Sec. 7906. Reports.  
 Sec. 7907. Monitoring, evaluation, and reporting.  
 Sec. 7908. Liaison for educational programs.  
 Sec. 7909. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf.  
 Sec. 7910. Oversight and effect of agreements.  
 Sec. 7911. International students.  
 Sec. 7912. Research priorities.  
 Sec. 7913. Authorization of appropriations.

## SUBCHAPTER B—UNITED STATES INSTITUTE OF PEACE ACT

Sec. 7921. United States Institute of Peace Act.

## SUBCHAPTER C—THE HIGHER EDUCATION AMENDMENTS OF 1998

- Sec. 7931. Repeals.  
 Sec. 7932. Grants to States for workplace and community transition training for incarcerated youth offenders.

## SUBCHAPTER D—INDIAN EDUCATION

## PART I—TRIBAL COLLEGES AND UNIVERSITIES

Sec. 7941. Reauthorization of the Tribally Controlled College or University Assistance Act of 1978.

## PART II—NAVAJO HIGHER EDUCATION

- Sec. 7945. Short title.  
 Sec. 7946. Reauthorization of Navajo Community College Act.

## Subtitle D—Hurricane Relief

- Sec. 7947. Findings.  
 Sec. 7948. Immediate aid to restart school operations.  
 Sec. 7949. Hold harmless for local educational agencies serving major disaster areas.  
 Sec. 7950. Teacher and paraprofessional reciprocity; delay.  
 Sec. 7951. Assistance for homeless youth.  
 Sec. 7952. Temporary emergency impact aid for displaced students.  
 Sec. 7953. Origination fees for student loans.  
 Sec. 7954. Authorization and appropriation of funds.  
 Sec. 7955. Sunset provision.

## TITLE VIII—COMMITTEE ON THE JUDICIARY

- Sec. 8001. Recapture of unused visa numbers.
- Sec. 8002. Fees with respect to immigration services for intracompany transferees.
- Sec. 8003. Justice programs.
- Sec. 8004. Copyright program.

#### DIVISION A—AMTRAK REAUTHORIZATION

- Sec. 1. Short title.
- Sec. 2. Amendment of Title 49, United States Code.

#### TITLE I—AUTHORIZATIONS

- Sec. 101. Authorization for Amtrak capital and operating expenses and State capital grants.
- Sec. 102. Authorization for the Federal Railroad Administration.
- Sec. 103. Repayment of long-term debt and capital leases.
- Sec. 104. Excess railroad retirement.
- Sec. 105. Other authorizations.

#### TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

- Sec. 201. National railroad passenger transportation system defined.
- Sec. 202. Amtrak board of directors.
- Sec. 203. Establishment of improved financial accounting system.
- Sec. 204. Development of 5-year financial plan.
- Sec. 205. Establishment of grant process.
- Sec. 206. State-supported routes.
- Sec. 207. Independent auditor to establish methodologies for Amtrak route and service planning decisions.
- Sec. 208. Metrics and standards.
- Sec. 209. Passenger train performance.
- Sec. 210. Long distance routes.
- Sec. 211. Alternate passenger rail service program.
- Sec. 212. Employee transition assistance.
- Sec. 213. Northeast corridor state-of-good-repair plan.
- Sec. 214. Northeast corridor infrastructure and operations improvements.
- Sec. 215. Restructuring long-term debt and capital leases.
- Sec. 216. Study of compliance requirements at existing intercity rail stations.
- Sec. 217. Incentive pay.
- Sec. 218. Access to Amtrak equipment and services.
- Sec. 219. General Amtrak provisions.
- Sec. 220. Private sector funding of passenger trains.
- Sec. 221. On-board service improvements.
- Sec. 222. Amtrak management accountability.

#### TITLE III—INTERCITY PASSENGER RAIL POLICY

- Sec. 301. Capital assistance for intercity passenger rail service.
- Sec. 302. State rail plans.
- Sec. 303. Next generation corridor train equipment pool.
- Sec. 304. Federal rail policy.
- Sec. 305. Rail cooperation research program.

#### TITLE IV—PASSENGER RAIL SECURITY AND SAFETY

- Sec. 401. Systemwide Amtrak security upgrades.

Sec. 402. Fire and life-safety improvements.

Sec. 403. Amtrak plan to assist families of passengers involved in rail passenger accidents.

Sec. 404. Northern border rail passenger report.

Sec. 405. Passenger, baggage, and cargo screening.

1 **TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

4 **SEC. 1001. SHORT TITLE.**

5 This title may be cited as the “Agricultural Reconciliation Act of 2005”.

7 **Subtitle A—Commodity Programs**

8 **SEC. 1101. REDUCTION OF COMMODITY PROGRAM PAYMENTS.**

10 (a) IN GENERAL.—Subtitle F of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 11 7991 et seq.) is amended by adding at the end the following:

14 **“SEC. 1619. REDUCTION OF COMMODITY PROGRAM PAYMENTS.**

16 **“(a) DEFINITION OF COMMODITY PROGRAM PAYMENTS.—**In this section, the term ‘commodity program payments’ means—

19 “(1) direct payments;

20 “(2) counter-cyclical payments; and

21 “(3) payments and benefits associated with the  
22 loan program, including gains from the forfeiture of  
23 any commodity pledged as collateral for loans and

1 gains from in-kind payments described in section  
2 166 of the Federal Agriculture Improvement and  
3 Reform Act of 1996 (7 U.S.C. 7286), as determined  
4 by the Secretary.

5 “(b) REDUCTION.—

6 “(1) IN GENERAL.—Notwithstanding any other  
7 provision of this title, for each of the 2006 through  
8 2010 crop years for wheat, corn, grain sorghum,  
9 barley, oats, upland cotton, extra long staple cotton,  
10 rice, soybeans, other oilseeds, wool, mohair, honey,  
11 dry peas, lentils, small chickpeas, unshorn pelts, si-  
12 lage, hay, and peanuts, the Secretary shall reduce  
13 the total amount of commodity program payments  
14 received by the producers on a farm for those com-  
15 modities for that crop year by an amount equal to  
16 2.5 percent of that amount.

17 “(2) MILK.—During the period beginning on  
18 October 1, 2005, and ending on September 30,  
19 2007, the Secretary shall reduce the total amount of  
20 payments received by producers pursuant to section  
21 1502 by an amount equal to 2.5 percent of that  
22 amount.”.

23 (b) COMMODITIES.—

24 (1) IN GENERAL.—Title I of the Farm Security  
25 and Rural Investment Act of 2002 (7 U.S.C. 7901

1 et seq.), including each amendment made by that  
 2 title, is amended by striking “2007” each place it  
 3 appears (other than in sections 1104(f), 1304(g),  
 4 and 1307(a)(6) and amendments made by this title)  
 5 and inserting “2011”.

6 (2) COTTON.—Sections 1204(e)(1) and 1208(a)  
 7 of the Farm Security and Rural Investment Act of  
 8 2002 (7 U.S.C. 7934(e)(1), 7938(a)) are amended  
 9 by striking “2008” each place it appears and insert-  
 10 ing “2012”.

11 **SEC. 1102. FORFEITURE PENALTY FOR NONRECOURSE**  
 12 **SUGAR LOANS.**

13 Section 156 of the Federal Agriculture Improvement  
 14 and Reform Act of 1996 (7 U.S.C. 7272) is amended—

15 (1) by redesignating subsections (h), (i), and (j)  
 16 as subsections (i), (j), and (k), respectively; and

17 (2) by inserting after subsection (g) the fol-  
 18 lowing:

19 “(h) FORFEITURE PENALTY.—

20 “(1) IN GENERAL.—In the case of each of the  
 21 2006 through 2010 crops of sugar beets and sugar-  
 22 cane, a penalty shall be assessed on the forfeiture of  
 23 any sugar pledged as collateral for a nonrecourse  
 24 loan under this section.

1           “(2) AMOUNT.—The penalty for sugarcane and  
2           sugar beets under this subsection shall be 1.2 per-  
3           cent of the loan rate established for sugarcane and  
4           sugar beets under subsections (a) and (b), respec-  
5           tively.

6           “(3) EFFECT OF FORFEITURE.—Any payments  
7           owed producers by a processor that forfeits any  
8           sugar pledged as collateral for a nonrecourse loan  
9           shall be reduced in proportion to the loan forfeiture  
10          penalty incurred by the processor.

11          “(4) CROPS.—This subsection shall apply only  
12          to the 2006 through 2010 crops of sugar beets and  
13          sugarcane.”.

14 **SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.**

15          (a) IN GENERAL.—Section 1207 of the Farm Secu-  
16          rity and Rural Investment Act of 2002 (7 U.S.C. 7937)  
17          is amended—

18                  (1) by striking the section heading and insert-  
19                  ing the following: “**UPLAND COTTON IMPORT**  
20                  **QUOTAS.**”;

21                  (2) by striking subsection (a);

22                  (3) by redesignating subsections (b) and (c) as  
23                  subsections (a) and (b), respectively;

24                  (4) in subsection (a) (as so redesignated)—

25                          (A) in paragraph (1)—

1 (i) in subparagraph (B), by striking “,  
2 adjusted for the value of any certificate  
3 issued under subsection (a),”; and

4 (ii) in subparagraph (C), by striking  
5 “, for the value of any certificates issued  
6 under subsection (a)”; and

7 (B) in paragraph (4), by striking “sub-  
8 section (c)” and inserting “subsection (b)”; and  
9 (5) in subsection (b)(2) (as so redesignated), by  
10 striking “subsection (b)” and inserting “subsection  
11 (a)”.

12 (b) FAIR.—Section 136 of the Federal Agriculture  
13 Improvement and Reform Act of 1996 (7 U.S.C. 7236)  
14 is repealed.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section take effect on August 1, 2006.

17 **SEC. 1104. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

18 (a) AMOUNT.—Section 1502(c) of the Farm Security  
19 and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is  
20 amended by striking paragraph (3) and inserting the fol-  
21 lowing:

22 “(3)(A) during the period beginning on the first  
23 day of the month the producers on a dairy farm  
24 enter into a contract under this section and ending  
25 on September 30, 2005, 45 percent; and

1           “(B) during the period beginning on October 1,  
2           2005, and ending on September 30, 2007, 34 per-  
3           cent.”.

4           (b) DURATION.—Section 1502 of the Farm Security  
5 and Rural Investment Act of 2002 (7 U.S.C. 7982) is  
6 amended by striking “2005” each place it appears in sub-  
7 sections (f) and (g)(1) and inserting “2007”.

8           (c) CONFORMING AMENDMENTS.—Section 1502 of  
9 the Farm Security and Rural Investment Act of 2002 (7  
10 U.S.C. 7982) is amended—

11           (1) in subsection (g)(1), by striking “and sub-  
12           section (h)”;

13           (2) by striking subsection (h).

14 **SEC. 1105. ADVANCE DIRECT PAYMENTS.**

15           (a) IN GENERAL.—Section 1103(d)(2) of the Farm  
16 Security and Rural Investment Act of 2002 (7 U.S.C.  
17 7913(d)(2)) is amended in the first sentence by striking  
18 “2007 crops years” and inserting “2005 crop years, up  
19 to 40 percent of the direct payment for a covered com-  
20 modity for the 2006 crop year, and up to 29 percent of  
21 the direct payment for a covered commodity for any of  
22 the 2007 through 2011 crop years,”.

23           (b) PEANUTS.—Section 1303(e)(2) of the Farm Se-  
24 curity and Rural Investment Act of 2002 (7 U.S.C.  
25 7953(e)(2)) is amended in the first sentence by striking

1 “2007 crop years” and inserting “2005 crop years, up  
 2 to 40 percent of the direct payment for the 2006 crop  
 3 year, and up to 29 percent of the direct payment for any  
 4 of the 2007 through 2011 crop years,”.

## 5 **Subtitle B—Conservation**

### 6 **SEC. 1201. CONSERVATION RESERVE PROGRAM.**

7 (a) IN GENERAL.—Section 1231 of the Food Security  
 8 Act of 1985 (16 U.S.C. 3831) is amended—

9 (1) in subsection (a), by striking “2007” and  
 10 inserting “2011”;

11 (2) in subsection (d), by striking “up” and all  
 12 that follows through “years” and inserting “in the  
 13 conservation reserve at any 1 time 36,400,000 acres  
 14 during the 2002 through 2010 calendar years and  
 15 38,300,000 acres in the 2011 calendar year”; and

16 (3) in subsection (h)(1)(A), by striking “2007”  
 17 and inserting “2011”.

18 (b) FUNDING.—Section 1241(a) of the Food Security  
 19 Act of 1985 (16 U.S.C. 3841(a)) is amended—

20 (1) in the matter before paragraph (1), by  
 21 striking “For” and inserting “Except as otherwise  
 22 provided in this subsection, for”; and

23 (2) in paragraph (1), by striking “The con-  
 24 servation” and inserting “For fiscal years 2002  
 25 through 2011, the conservation”.

1           (c) IMPLEMENTATION.—In implementing the amend-  
 2 ments made by this section, the Secretary of Agriculture  
 3 shall achieve the new maximum acreage enrollment limit  
 4 not later than 2 years after the date of enactment of this  
 5 Act without affecting conservation reserve existing con-  
 6 tracts.

7 **SEC. 1202. CONSERVATION SECURITY PROGRAM.**

8           (a) IN GENERAL.—Section 1238A(a) of the Food Se-  
 9 curity Act of 1985 (16 U.S.C. 3838a(a)) is amended by  
 10 striking “2007” and inserting “2011”.

11           (b) FUNDING.—Section 1241(a)(3) of the Food Secu-  
 12 rity Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by  
 13 striking “not more than \$6,037,000,000” and all that fol-  
 14 lows through “2014.” and inserting the following: “not  
 15 more than—

16                           “(A) \$1,954,000,000 for the period of fis-  
 17                           cal years 2006 through 2010; and

18                           “(B) \$5,200,000,000 for the period of fis-  
 19                           cal years 2006 through 2015.”.

20 **SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PRO-**  
 21 **GRAM.**

22           (a) IN GENERAL.—Section 1240B(a)(1) of the Food  
 23 Security Act of 1985 (16 U.S.C. 3839aa–2(a)(1)) is  
 24 amended by striking “2007” and inserting “2011”.

1 (b) LIMITATION ON PAYMENTS.—Section 1240G of  
 2 the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is  
 3 amended by striking “2007” and inserting “2011”.

4 (c) FUNDING.—Section 1241(a)(6) of the Food Secu-  
 5 rity Act of 1985 (16 U.S.C. 3841(a)(6)) is amended by  
 6 striking subparagraphs (D) and (E) and inserting the fol-  
 7 lowing:

8 “(D) \$1,017,000,000 in fiscal year 2005;

9 “(E) \$1,185,000,000 in fiscal year 2006;

10 “(F) \$1,270,000,000 in each of fiscal  
 11 years 2007 through 2010; and

12 “(G) \$1,300,000,000 in fiscal year 2011.”.

### 13 **Subtitle C—Miscellaneous**

#### 14 **SEC. 1301. INITIATIVE FOR FUTURE AGRICULTURE AND** 15 **FOOD SYSTEMS.**

16 (a) IN GENERAL.—Section 401(b)(3) of the Agricul-  
 17 tural Research, Extension, and Education Reform Act of  
 18 1998 (7 U.S.C. 7621(b)(3)) is amended—

19 (1) in subparagraph (C), by striking  
 20 “\$160,000,000; and” and inserting  
 21 “\$104,000,000;”;

22 (2) by redesignating subparagraph (D) as sub-  
 23 paragraph (E);

24 (3) by inserting after subparagraph (C) the fol-  
 25 lowing:

1           “(D) on October 1, 2006, and each Octo-  
 2           ber 1 thereafter through October 1, 2009,  
 3           \$130,000,000; and”;

4           (4) in subparagraph (E) (as so redesignated),  
 5           by striking “2006” and inserting “2010”.

6           (b) EFFECTIVE DATE.—The amendments made by  
 7           subsection (a) take effect on October 1, 2005.

8           **TITLE II—COMMITTEE ON BANK-**  
 9           **ING, HOUSING, AND URBAN**  
 10          **AFFAIRS**

11          **Subtitle A—Merger of the Deposit**  
 12          **Insurance Funds**

13          **SEC. 2001. SHORT TITLE.**

14           This subtitle may be cited as the “Safe and Fair De-  
 15          posit Insurance Act of 2005”.

16          **SEC. 2002. DEFINITIONS.**

17           In this subtitle—

18           (1) the term “Administration” means the Na-  
 19          tional Credit Union Administration;

20           (2) the term “Board” means the Board of Di-  
 21          rectors of the Federal Deposit Insurance Corpora-  
 22          tion (other than in connection with the National  
 23          Credit Union Administration Board);

24           (3) the term “Corporation” means the Federal  
 25          Deposit Insurance Corporation;

1           (4) the term “designated reserve ratio” means  
2 the reserve ratio designated by the Board under sec-  
3 tion 7(b)(3) of the Federal Deposit Insurance Act,  
4 as amended by this subtitle;

5           (5) the terms “Fund” and “Deposit Insurance  
6 Fund” mean the Deposit Insurance Fund estab-  
7 lished under section 11(a)(4) of the Federal Deposit  
8 Insurance Act, as amended by this subtitle;

9           (6) the terms “depository institution” and “in-  
10 sured depository institution” have the same mean-  
11 ings as in section 3 of the Federal Deposit Insur-  
12 ance Act; and

13           (7) the term “reserve ratio” means the ratio of  
14 the fund balance of the Deposit Insurance Fund to  
15 aggregate estimated insured deposits held in all in-  
16 sured depository institutions.

17 **SEC. 2003. MERGER OF BIF AND SAIF.**

18 (a) IN GENERAL.—

19           (1) MERGER.—The Bank Insurance Fund and  
20 the Savings Association Insurance Fund shall be  
21 merged into the Deposit Insurance Fund.

22           (2) DISPOSITION OF ASSETS AND LIABIL-  
23 ITIES.—All assets and liabilities of the Bank Insur-  
24 ance Fund and the Savings Association Insurance

1 Fund shall be transferred to the Deposit Insurance  
2 Fund.

3 (3) NO SEPARATE EXISTENCE.—The separate  
4 existence of the Bank Insurance Fund and the Sav-  
5 ings Association Insurance Fund shall cease on the  
6 effective date of the merger thereof under this sec-  
7 tion.

8 (b) REPEAL OF OUTDATED MERGER PROVISION.—  
9 Section 2704 of the Deposit Insurance Funds Act of 1996  
10 (12 U.S.C. 1821 note) is repealed.

11 **SEC. 2004. ESTABLISHMENT OF THE DEPOSIT INSURANCE**  
12 **FUND.**

13 (a) IN GENERAL.—Section 11(a)(4) of the Federal  
14 Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is  
15 amended—

16 (1) by redesignating subparagraph (B) as sub-  
17 paragraph (C);

18 (2) by striking subparagraph (A) and inserting  
19 the following:

20 “(A) ESTABLISHMENT.—There is estab-  
21 lished the Deposit Insurance Fund, which the  
22 Corporation shall—

23 “(i) maintain and administer;

1                   “(ii) use to carry out its insurance  
2                   purposes, in the manner provided by this  
3                   subsection; and

4                   “(iii) invest in accordance with section  
5                   13(a).

6                   “(B) USES.—The Deposit Insurance Fund  
7                   shall be available to the Corporation for use  
8                   with respect to Deposit Insurance Fund mem-  
9                   bers.”;

10                  (3) by striking “(4) GENERAL PROVISIONS RE-  
11                  LATING TO FUNDS.—” and inserting the following:

12                   “(4) ESTABLISHMENT OF THE DEPOSIT INSUR-  
13                   ANCE FUND.—”;

14                  (4) in subparagraph (C), as redesignated by  
15                  paragraph (1) of this subsection, by striking “Bank  
16                  Insurance Fund and the Savings Association Insur-  
17                  ance Fund” and inserting “Deposit Insurance  
18                  Fund”; and

19                  (5) by adding at the end the following:

20                   “(D) DEPOSITS.—All amounts assessed  
21                   against insured depository institutions by the  
22                   Corporation shall be deposited in the Deposit  
23                   Insurance Fund.”.

24                  (b) MERGER-RELATED AMENDMENTS TO THE FED-  
25                  ERAL DEPOSIT INSURANCE ACT.—

1           (1) DEFINITIONS.—Section 3(y) of the Federal  
2       Deposit Insurance Act (12 U.S.C. 1813(y)) is  
3       amended to read as follows:

4       “(y) DEFINITIONS RELATING TO THE DEPOSIT IN-  
5       SURANCE FUND.—

6           “(1) DEPOSIT INSURANCE FUND.—The terms  
7       ‘Deposit Insurance Fund’ and ‘Fund’ mean the fund  
8       established under section 11(a)(4).”.

9           (2) ASSESSMENTS.—Section 7 of the Federal  
10       Deposit Insurance Act (12 U.S.C. 1817) is  
11       amended—

12           (A) by striking subsection (l);

13           (B) by redesignating subsections (m) and  
14       (n) as subsections (l) and (m), respectively; and

15           (C) in subsection (b), by striking para-  
16       graph (2) and inserting the following:

17       “(2) ASSESSMENTS.—

18           “(A) IN GENERAL.—Each insured deposi-  
19       tory institution shall pay assessments to the  
20       Corporation in such amounts and at such time  
21       or times as the Board of Directors may require.

22           “(B) FACTORS TO BE CONSIDERED.—In  
23       setting assessments for insured depository insti-  
24       tutions, the Board of Directors shall consider—

1                   “(i) the estimated operating expenses  
2                   of the Deposit Insurance Fund;

3                   “(ii) the estimated case resolution ex-  
4                   penditures and income of the Deposit In-  
5                   surance Fund;

6                   “(iii) the projected effects of assess-  
7                   ments on the earnings and capital of in-  
8                   sured depository institutions;

9                   “(iv) the need to maintain a risk-  
10                  based assessment system under paragraph  
11                  (1); and

12                  “(v) any other factors that the Board  
13                  of Directors may determine to be appro-  
14                  priate.

15                  “(C) NOTICE OF ASSESSMENTS.—The Cor-  
16                  poration shall notify each insured depository in-  
17                  stitution of assessments charged to that institu-  
18                  tion.

19                  “(D) NEWLY INSURED INSTITUTIONS.—To  
20                  facilitate the administration of this section, the  
21                  Board of Directors may waive the requirements  
22                  of subsection (c)(1) and subparagraph (A) of  
23                  this paragraph for any assessment period in  
24                  which a depository institution becomes in-  
25                  sured.”.

1           (3) REPEAL OF SEPARATE FUNDS PROVI-  
2           SIONS.—Section 11(a) of the Federal Deposit Insur-  
3           ance Act (12 U.S.C. 1821(a)) is amended—

4                   (A) by striking paragraphs (5), (6), and  
5                   (7); and

6                   (B) by redesignating paragraph (8) as  
7                   paragraph (5).

8 **SEC. 2005. TECHNICAL AND CONFORMING AMENDMENTS**  
9                   **TO THE FEDERAL DEPOSIT INSURANCE ACT.**

10           (a) IN GENERAL.—The Federal Deposit Insurance  
11           Act (12 U.S.C. 1811 et seq.) is amended—

12                   (1) in section 3(a)(1) (12 U.S.C. 1813(a)(1)),  
13                   by striking subparagraph (B) and inserting the fol-  
14                   lowing:

15                           “(B) includes any former savings associa-  
16                           tion.”;

17                   (2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)),  
18                   by striking “the Bank Insurance Fund or the Sav-  
19                   ings Association Insurance Fund;” and inserting  
20                   “the Deposit Insurance Fund;”;

21                   (3) in section 5(c)(4), by striking “deposit in-  
22                   surance fund” and inserting “Deposit Insurance  
23                   Fund”;

24                   (4) in section 5(d) (12 U.S.C. 1815(d)), by  
25                   striking paragraphs (2) and (3);

1 (5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

2 (A) in subparagraph (A), by striking “re-  
3 serve ratios in the Bank Insurance Fund and  
4 the Savings Association Insurance Fund as re-  
5 quired by section 7” and inserting “the reserve  
6 ratio of the Deposit Insurance Fund”;

7 (B) by striking subparagraph (B) and in-  
8 serting the following:

9 “(2) FEE CREDITED TO THE DEPOSIT INSUR-  
10 ANCE FUND.—The fee paid by the depository insti-  
11 tution under paragraph (1) shall be credited to the  
12 Deposit Insurance Fund.”;

13 (C) by striking “UNINSURED INSTITU-  
14 TIONS.—” and all that follows through “GEN-  
15 ERAL.—” and inserting “UNINSURED INSTITU-  
16 TIONS.—”; and

17 (D) by redesignating subparagraph (C) as  
18 paragraph (3) and moving the margin 2 ems to  
19 the left;

20 (6) in section 5(e) (12 U.S.C. 1815(e))—

21 (A) in paragraph (5)(A), by striking  
22 “Bank Insurance Fund or the Savings Associa-  
23 tion Insurance Fund” and inserting “Deposit  
24 Insurance Fund”;

25 (B) by striking paragraph (6); and

1 (C) by redesignating paragraphs (7), (8),  
2 and (9) as paragraphs (6), (7), and (8), respec-  
3 tively;

4 (7) in section 6(5) (12 U.S.C. 1816(5)), by  
5 striking “Bank Insurance Fund or the Savings As-  
6 sociation Insurance Fund” and inserting “Deposit  
7 Insurance Fund”;

8 (8) in section 7(a)(3) (12 U.S.C. 1817(a)(3))—

9 (A) by striking “in July”; and

10 (B) by striking “in January”;

11 (9) in section 7(b) (12 U.S.C. 1817(b))—

12 (A) in paragraph (1)—

13 (i) in subparagraph (B)(ii), by strik-  
14 ing “institution’s semiannual assessment”  
15 and inserting “assessments for that insti-  
16 tution under subsection (b)”;

17 (ii) in subparagraph (C)—

18 (I) by striking “a depository in-  
19 stitution’s semiannual assessment”  
20 and inserting “assessments for a de-  
21 pository institution under subsection  
22 (b)”;

23 (II) by striking “deposit insur-  
24 ance fund” each place that term ap-

1                   pears and inserting “Deposit Insur-  
2                   ance Fund”;

3                   (B) in paragraph (1)(D), by striking “each  
4                   deposit insurance fund” and inserting “the De-  
5                   posit Insurance Fund”;

6                   (C) by striking paragraph (4) and redesignig-  
7                   nating paragraphs (5) through (7) as para-  
8                   graphs (4) through (6), respectively;

9                   (D) in paragraph (5), as so redesignated—

10                   (i) by striking “any such assessment”  
11                   and inserting “any such assessment is nec-  
12                   essary”;

13                   (ii) by striking subparagraph (B);

14                   (iii) in subparagraph (A)—

15                   (I) by striking “(A) is nec-  
16                   essary—”;

17                   (II) by striking “Bank Insurance  
18                   Fund members” and inserting “in-  
19                   sured depository institutions”; and

20                   (III) by redesignating clauses (i),  
21                   (ii), and (iii) as subparagraphs (A),  
22                   (B), and (C), respectively, and moving  
23                   the margins 2 ems to the left; and

24                   (iv) in subparagraph (C) (as redesignig-  
25                   nated)—

1 (I) by inserting “that” before  
2 “the Corporation”; and

3 (II) by striking “; and” and in-  
4 serting a period; and

5 (E) in paragraph (6), as so redesignated,  
6 by striking “semiannual assessment” and in-  
7 serting “assessment under subsection (b)”;

8 (10) in section 7(c) (12 U.S.C. 1817(c))—

9 (A) in paragraph (1), by striking “institu-  
10 tion’s semiannual assessment” and inserting  
11 “assessments for that institution under sub-  
12 section (b)”;

13 (B) by striking paragraphs (2) and (3);  
14 and

15 (C) by redesignating paragraph (4) as  
16 paragraph (2);

17 (11) in section 7(j)(7)(F) (12 U.S.C.  
18 1817(j)(7)(F)), by striking “Bank Insurance Fund  
19 or the Savings Association Insurance Fund” and in-  
20 serting “Deposit Insurance Fund”;

21 (12) in section 8 (12 U.S.C. 1818)—

22 (A) in subsection (p), by striking “semi-  
23 annual”;

24 (B) in subsection (q), by striking “semi-  
25 annual” and inserting “assessment”; and

1 (C) in subsection (t)(2)(C), by striking  
2 “deposit insurance fund” and inserting “De-  
3 posit Insurance Fund”;

4 (13) in section 11 (12 U.S.C. 1821), by striking  
5 “deposit insurance fund” each place that term ap-  
6 pears and inserting “Deposit Insurance Fund”;

7 (14) in section 11(f)(1) (12 U.S.C. 1821(f)(1)),  
8 by striking “, except that—” and all that follows  
9 through the end of the paragraph and inserting a  
10 period;

11 (15) in section 11(i)(3) (12 U.S.C.  
12 1821(i)(3))—

13 (A) by striking subparagraph (B);

14 (B) by redesignating subparagraph (C) as  
15 subparagraph (B); and

16 (C) in subparagraph (B) (as redesignated),  
17 by striking “subparagraphs (A) and (B)” and  
18 inserting “subparagraph (A)”;

19 (16) in section 11(p)(2)(B) (12 U.S.C.  
20 1821(p)(2)(B)), by striking “institution, any” and  
21 inserting “institution, the”;

22 (17) in section 12(f)(4)(E)(iv) (12 U.S.C.  
23 1822(f)(4)(E)(iv)), by striking “Federal deposit in-  
24 surance funds” and inserting “the Deposit Insur-

1       ance Fund, or any predecessor deposit insurance  
2       fund”;

3           (18) in section 13 (12 U.S.C. 1823)—

4           (A) by striking “deposit insurance fund”  
5       each place that term appears and inserting  
6       “Deposit Insurance Fund”;

7           (B) in subsection (a)(1), by striking “Bank  
8       Insurance Fund, the Savings Association Insur-  
9       ance Fund,” and inserting “Deposit Insurance  
10      Fund”;

11          (C) in subsection (c)(4)(E)—

12           (i) in the subparagraph heading, by  
13      striking “FUNDS” and inserting “FUND”;  
14      and

15           (ii) in clause (i), by striking “any in-  
16      surance fund” and inserting “the Deposit  
17      Insurance Fund”;

18          (D) in subsection (c)(4)(G)(ii)—

19           (i) by striking “appropriate insurance  
20      fund” and inserting “Deposit Insurance  
21      Fund”;

22           (ii) by striking “the members of the  
23      insurance fund (of which such institution  
24      is a member)” and inserting “insured de-  
25      pository institutions”;

1 (iii) by striking “each member’s” and  
2 inserting “each insured depository institu-  
3 tion’s”;

4 (iv) by striking “the member’s” each  
5 place that term appears and inserting “the  
6 institution’s”; and

7 (v) in subclause (II), by striking  
8 “semiannual” and inserting “applicable as-  
9 sessment”;

10 (E) in subsection (c), by striking para-  
11 graph (11);

12 (F) in subsection (h), by striking “Bank  
13 Insurance Fund” and inserting “Deposit Insur-  
14 ance Fund”;

15 (G) in subsection (k)(4)(B)(i), by striking  
16 “Savings Association Insurance Fund member”  
17 and inserting “savings association”; and

18 (H) in subsection (k)(5)—

19 (i) in subparagraph (A), by striking  
20 “Savings Association Insurance Fund  
21 members” and inserting “savings associa-  
22 tions”;

23 (ii) by striking “member’s” each place  
24 that term appears and inserting “savings  
25 association’s”; and

1 (iii) by striking “member” each place  
2 that term appears and inserting “savings  
3 association”;

4 (19) in section 14(a) (12 U.S.C. 1824(a)), in  
5 the 5th sentence—

6 (A) by striking “Bank Insurance Fund or  
7 the Savings Association Insurance Fund” and  
8 inserting “Deposit Insurance Fund”; and

9 (B) by striking “each such fund” and in-  
10 sserting “the Deposit Insurance Fund”;

11 (20) in section 14(b) (12 U.S.C. 1824(b)), by  
12 striking “Bank Insurance Fund or Savings Associa-  
13 tion Insurance Fund” and inserting “Deposit Insur-  
14 ance Fund”;

15 (21) in section 14(c) (12 U.S.C. 1824(c))—

16 (A) in paragraph (2)(A), by striking “(7)”  
17 and inserting “(6)”; and

18 (B) by striking paragraph (3);

19 (22) in section 14(d) (12 U.S.C. 1824(d))—

20 (A) by striking “Bank Insurance Fund  
21 member” each place that term appears and in-  
22 sserting “insured depository institution”;

23 (B) by striking “Bank Insurance Fund  
24 members” each place that term appears and in-  
25 sserting “insured depository institutions”;

1 (C) by striking “Bank Insurance Fund”  
2 each place that term appears (other than in  
3 connection with a reference to a Bank Insur-  
4 ance Fund member or members) and inserting  
5 “Deposit Insurance Fund”;

6 (D) by striking the subsection heading and  
7 inserting the following:

8 “(d) BORROWING FOR THE DEPOSIT INSURANCE  
9 FUND FROM INSURED DEPOSITORY INSTITUTIONS.—”;

10 (E) in paragraph (3), in the paragraph  
11 heading, by striking “BIF” and inserting “THE  
12 DEPOSIT INSURANCE FUND”; and

13 (F) in paragraph (5), in the paragraph  
14 heading, by striking “BIF MEMBERS” and in-  
15 serting “INSURED DEPOSITORY INSTITUTIONS”;

16 (23) in section 14 (12 U.S.C. 1824), by adding  
17 at the end the following:

18 “(e) BORROWING FOR THE DEPOSIT INSURANCE  
19 FUND FROM FEDERAL HOME LOAN BANKS.—

20 “(1) IN GENERAL.—The Corporation may bor-  
21 row from the Federal home loan banks, with the  
22 concurrence of the Federal Housing Finance Board,  
23 such funds as the Corporation considers necessary  
24 for the use of the Deposit Insurance Fund.

1           “(2) TERMS AND CONDITIONS.—Any loan from  
2           any Federal home loan bank under paragraph (1) to  
3           the Deposit Insurance Fund shall—

4                   “(A) bear a rate of interest of not less  
5                   than the current marginal cost of funds to that  
6                   bank, taking into account the maturities in-  
7                   volved;

8                   “(B) be adequately secured, as determined  
9                   by the Federal Housing Finance Board; and

10                   “(C) be a direct liability of the Deposit In-  
11                   surance Fund.”;

12           (24) in section 15(c)(5) (12 U.S.C.  
13           1825(c)(5))—

14                   (A) by striking “the Bank Insurance Fund  
15                   or Savings Association Insurance Fund, respec-  
16                   tively” each place that term appears and insert-  
17                   ing “the Deposit Insurance Fund”; and

18                   (B) in subparagraph (B), by striking “the  
19                   Bank Insurance Fund or the Savings Associa-  
20                   tion Insurance Fund, respectively” and insert-  
21                   ing “the Deposit Insurance Fund”;

22           (25) in section 17(a) (12 U.S.C. 1827(a))—

23                   (A) in the subsection heading, by striking  
24                   “BIF, SAIF,” and inserting “THE DEPOSIT IN-  
25                   SURANCE FUND”; and

1 (B) in paragraph (1)—

2 (i) by striking “the Bank Insurance  
3 Fund, the Savings Association Insurance  
4 Fund,” each place that term appears and  
5 inserting “the Deposit Insurance Fund”;  
6 and

7 (ii) in subparagraph (D), by striking  
8 “each insurance fund” and inserting “the  
9 Fund”;

10 (26) in section 17(d) (12 U.S.C. 1827(d)), by  
11 striking “, the Bank Insurance Fund, the Savings  
12 Association Insurance Fund,” each place that term  
13 appears and inserting “the Deposit Insurance  
14 Fund”;

15 (27) in section 18(m) (12 U.S.C. 1828(m))—

16 (A) in paragraph (2), in the matter pre-  
17 ceding subparagraph (A), by striking the colon  
18 and inserting a dash;

19 (B) in paragraph (3)(A)—

20 (i) by striking “poses a serious threat  
21 to the Savings Association Insurance  
22 Fund” and inserting “of an insured sav-  
23 ings association poses a serious threat to  
24 the Deposit Insurance Fund”; and

1 (ii) by striking “Savings Association  
2 Insurance Fund member” and inserting  
3 “insured savings association”; and

4 (C) in paragraph (3)(C), by striking “Sav-  
5 ings Association Insurance Fund or the Bank  
6 Insurance Fund” and inserting “Deposit Insur-  
7 ance Fund”;

8 (28) in section 18(o) (12 U.S.C. 1828(o)), by  
9 striking “deposit insurance funds” and “deposit in-  
10 surance fund” each place those terms appear and in-  
11 sserting “Deposit Insurance Fund”;

12 (29) in section 18(p) (12 U.S.C. 1828(p)), by  
13 striking “deposit insurance funds” and inserting  
14 “Deposit Insurance Fund”;

15 (30) in section 24 (12 U.S.C. 1831a)—

16 (A) in subsections (a)(1) and (d)(1)(A), by  
17 striking “appropriate deposit insurance fund”  
18 each place that term appears and inserting  
19 “Deposit Insurance Fund”;

20 (B) in subsection (e)(2)(A), by striking  
21 “risk to” and all that follows through the pe-  
22 riod and inserting “risk to the Deposit Insur-  
23 ance Fund.”; and

24 (C) in subsections (e)(2)(B)(ii) and  
25 (f)(6)(B), by striking “the insurance fund of

1           which such bank is a member” each place that  
2           term appears and inserting “the Deposit Insur-  
3           ance Fund”;

4           (31) in section 28 (12 U.S.C. 1831e), by strik-  
5           ing “affected deposit insurance fund” each place  
6           that term appears and inserting “Deposit Insurance  
7           Fund”;

8           (32) by striking section 31 (12 U.S.C. 1831h);

9           (33) in section 36(i)(3) (12 U.S.C.  
10          1831m(i)(3)), by striking “affected deposit insur-  
11          ance fund” and inserting “Deposit Insurance  
12          Fund”;

13          (34) in section 37(a)(1)(C) (12 U.S.C.  
14          1831n(a)(1)(C)), by striking “insurance funds” and  
15          inserting “Deposit Insurance Fund”;

16          (35) in section 38 (12 U.S.C. 1831o), by strik-  
17          ing “the deposit insurance fund” each place that  
18          term appears and inserting “the Deposit Insurance  
19          Fund”;

20          (36) in section 38(a) (12 U.S.C. 1831o(a)), in  
21          the subsection heading, by striking “FUNDS” and in-  
22          serting “FUND”;

23          (37) in section 38(k) (12 U.S.C. 1831o(k))—

1 (A) in paragraph (1), by striking “a de-  
2 posit insurance fund” and inserting “the De-  
3 posit Insurance Fund”;

4 (B) in paragraph (2), by striking “A de-  
5 posit insurance fund” and inserting “The De-  
6 posit Insurance Fund”; and

7 (C) in paragraphs (2)(A) and (3)(B), by  
8 striking “the deposit insurance fund’s outlays”  
9 each place that term appears and inserting “the  
10 outlays of the Deposit Insurance Fund”; and  
11 (38) in section 38(o) (12 U.S.C. 1831o(o))—

12 (A) by striking “ASSOCIATIONS.—” and all  
13 that follows through “Subsections (e)(2)” in  
14 paragraph (2) and inserting “ASSOCIATIONS.—  
15 Subsections (e)(2)”;

16 (B) by redesignating subparagraphs (A),  
17 (B), and (C) as paragraphs (1), (2), and (3),  
18 respectively, and moving the margins 2 ems to  
19 the left; and

20 (C) in paragraph (1) (as so redesignated),  
21 by redesignating clauses (i) and (ii) as subpara-  
22 graphs (A) and (B), respectively, and moving  
23 the margins 2 ems to the left.

24 (b) CONFORMING TRANSFER OF FUNDS.—Any funds  
25 resulting from the application of section 7(d)(2) of the

1 Federal Deposit Insurance Act prior to its repeal under  
 2 subsection (a)(4) of this section shall be deposited into the  
 3 general fund of the Deposit Insurance Fund established  
 4 pursuant to this subtitle.

5 **SEC. 2006. OTHER TECHNICAL AND CONFORMING AMEND-**  
 6 **MENTS.**

7 (a) SECTION 5136 OF THE REVISED STATUTES.—  
 8 The paragraph designated the “Eleventh” of section 5136  
 9 of the Revised Statutes of the United States (12 U.S.C.  
 10 24) is amended in the 5th sentence, by striking “affected  
 11 deposit insurance fund” and inserting “Deposit Insurance  
 12 Fund”.

13 (b) INVESTMENTS PROMOTING PUBLIC WELFARE;  
 14 LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d  
 15 undesignated paragraph of section 9 of the Federal Re-  
 16 serve Act (12 U.S.C. 338a) is amended in the 4th sen-  
 17 tence, by striking “affected deposit insurance fund” and  
 18 inserting “Deposit Insurance Fund”.

19 (c) ADVANCES TO CRITICALLY UNDERCAPITALIZED  
 20 DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of  
 21 the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is  
 22 amended by striking “any deposit insurance fund in” and  
 23 inserting “the Deposit Insurance Fund of”.

1 (d) AMENDMENTS TO THE FEDERAL HOME LOAN  
2 BANK ACT.—The Federal Home Loan Bank Act (12  
3 U.S.C. 1421 et seq.) is amended—

4 (1) in section 11(k) (12 U.S.C. 1431(k))—

5 (A) in the subsection heading, by striking  
6 “SAIF” and inserting “THE DEPOSIT INSUR-  
7 ANCE FUND”; and

8 (B) by striking “Savings Association In-  
9 surance Fund” each place that term appears  
10 and inserting “Deposit Insurance Fund”;

11 (2) in section 21 (12 U.S.C. 1441)—

12 (A) in subsection (f)(2), by striking “, ex-  
13 cept that” and all that follows through the end  
14 of the paragraph and inserting a period; and

15 (B) in subsection (k), by striking para-  
16 graph (4);

17 (3) in section 21A(b)(4)(B) (12 U.S.C.  
18 1441a(b)(4)(B)), by striking “affected deposit insur-  
19 ance fund” and inserting “Deposit Insurance  
20 Fund”; and

21 (4) in section 21B(k) (12 U.S.C. 1441b(k)) by  
22 inserting before the colon “, the following definitions  
23 shall apply”.

1 (e) AMENDMENTS TO THE HOME OWNERS' LOAN  
2 ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et  
3 seq.) is amended—

4 (1) in section 5 (12 U.S.C. 1464)—

5 (A) in subsection (c)(6), by striking “As  
6 used in this subsection—” and inserting “For  
7 purposes of this subsection, the following defini-  
8 tions shall apply:”;

9 (B) in subsection (o)(1), by striking “that  
10 is a Bank Insurance Fund member”;

11 (C) in subsection (o)(2)(A), by striking “a  
12 Bank Insurance Fund member until such time  
13 as it changes its status to a Savings Association  
14 Insurance Fund member” and inserting “in-  
15 sured by the Deposit Insurance Fund”;

16 (D) in subsection (t)(5)(D)(iii)(II), by  
17 striking “affected deposit insurance fund” and  
18 inserting “Deposit Insurance Fund”;

19 (E) in subsection (t)(7)(C)(i)(I), by strik-  
20 ing “affected deposit insurance fund” and in-  
21 serting “Deposit Insurance Fund”; and

22 (F) in subsection (v)(2)(A)(i), by striking  
23 “the Savings Association Insurance Fund” and  
24 inserting “or the Deposit Insurance Fund”; and

25 (2) in section 10 (12 U.S.C. 1467a)—

1 (A) in subsection (c)(6)(D), by striking  
2 “this title” and inserting “this Act”;

3 (B) in subsection (e)(1)(B), by striking  
4 “Savings Association Insurance Fund or Bank  
5 Insurance Fund” and inserting “Deposit Insur-  
6 ance Fund”;

7 (C) in subsection (e)(2), by striking “Sav-  
8 ings Association Insurance Fund or the Bank  
9 Insurance Fund” and inserting “Deposit Insur-  
10 ance Fund”;

11 (D) in subsection (e)(4)(B), by striking  
12 “subsection (1)” and inserting “subsection (l)”;

13 (E) in subsection (g)(3)(A), by striking  
14 “(5) of this section” and inserting “(5) of this  
15 subsection”;

16 (F) in subsection (i), by redesignating  
17 paragraph (5) as paragraph (4);

18 (G) in subsection (m)(3), by striking sub-  
19 paragraph (E), and by redesignating subpara-  
20 graphs (F), (G), and (H) as subparagraphs  
21 (E), (F), and (G), respectively;

22 (H) in subsection (m)(7)(A), by striking  
23 “during period” and inserting “during the pe-  
24 riod”; and

1 (I) in subsection (o)(3)(D), by striking  
 2 “sections 5(s) and (t) of this Act” and inserting  
 3 “subsections (s) and (t) of section 5”.

4 (f) AMENDMENTS TO THE NATIONAL HOUSING  
 5 ACT.—The National Housing Act (12 U.S.C. 1701 et  
 6 seq.) is amended—

7 (1) in section 317(b)(1)(B) (12 U.S.C.  
 8 1723i(b)(1)(B)), by striking “Bank Insurance Fund  
 9 for banks or through the Savings Association Insur-  
 10 ance Fund for savings associations” and inserting  
 11 “Deposit Insurance Fund”; and

12 (2) in section 536(b)(1)(B)(ii) (12 U.S.C.  
 13 1735f–14(b)(1)(B)(ii)), by striking “Bank Insurance  
 14 Fund for banks and through the Savings Association  
 15 Insurance Fund for savings associations” and insert-  
 16 ing “Deposit Insurance Fund”.

17 (g) AMENDMENTS TO THE FINANCIAL INSTITUTIONS  
 18 REFORM, RECOVERY, AND ENFORCEMENT ACT OF  
 19 1989.—The Financial Institutions Reform, Recovery, and  
 20 Enforcement Act of 1989 (12 U.S.C. 1811 note) is  
 21 amended—

22 (1) in section 951(b)(3)(B) (12 U.S.C.  
 23 1833a(b)(3)(B)), by striking “Bank Insurance  
 24 Fund, the Savings Association Insurance Fund,”

1 and inserting “Deposit Insurance Fund (or any  
2 predecessor deposit insurance fund)”; and

3 (2) in section 1112(c)(1)(B) (12 U.S.C.  
4 3341(c)(1)(B)), by striking “Bank Insurance Fund,  
5 the Savings Association Insurance Fund,” and in-  
6 serting “Deposit Insurance Fund”.

7 (h) AMENDMENT TO THE BANK HOLDING COMPANY  
8 ACT OF 1956.—The Bank Holding Company Act of 1956  
9 (12 U.S.C. 1841 et seq.) is amended—

10 (1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by  
11 striking “Savings Association Insurance Fund” and  
12 inserting “Deposit Insurance Fund”; and

13 (2) in section 3(d)(1)(D)(iii) (12 U.S.C.  
14 1842(d)(1)(D)(iii)), by striking “appropriate deposit  
15 insurance fund” and inserting “Deposit Insurance  
16 Fund”.

17 (i) AMENDMENTS TO THE GRAMM-LEACH-BLILEY  
18 ACT.—Section 114 of the Gramm-Leach-Bliley Act (12  
19 U.S.C. 1828a) is amended in each of subsection (a)(1)(B),  
20 paragraphs (2)(B) and (4)(B) of subsection (b), and sub-  
21 section (c)(1)(B), by striking “any Federal deposit insur-  
22 ance fund” and inserting “the Deposit Insurance Fund”.

23 **SEC. 2007. EFFECTIVE DATE.**

24 (a) IN GENERAL.—Except as otherwise provided in  
25 this subtitle, this subtitle and the amendments made by

1 this subtitle shall become effective not later than the first  
 2 day of the first calendar quarter that begins more than  
 3 90 days after the date of enactment of this Act.

4 (b) EARLIER IMPLEMENTATION.—

5 (1) CORPORATION DETERMINATION.—If the  
 6 Corporation determines that merger of the deposit  
 7 insurance funds should occur before the first day of  
 8 the first calendar quarter as described in subsection  
 9 (a), the Corporation shall—

10 (A) announce such determination publicly;

11 and

12 (B) establish the effective date of the  
 13 merger.

14 (2) EARLIER EFFECTIVE DATE.—On the date  
 15 established under paragraph (1)(B), this subtitle  
 16 and the amendments made by this subtitle shall be-  
 17 come effective.

18 **Subtitle B—Deposit Insurance**  
 19 **Modernization and Improvement**

20 **SEC. 2011. SHORT TITLE.**

21 This subtitle may be cited as the “Deposit Insurance  
 22 Reform Act of 2005”.

23 **SEC. 2012. CHANGES TO FEDERAL DEPOSIT INSURANCE**  
 24 **COVERAGE.**

25 (a) INSURED DEPOSITORY INSTITUTIONS.—

1           (1) IN GENERAL.—Section 11(a)(1) of the Fed-  
2           eral Deposit Insurance Act (12 U.S.C. 1821(a)(1))  
3           is amended—

4                   (A) by striking subparagraph (B) and in-  
5                   serting the following:

6                   “(B) NET AMOUNT OF INSURED DEPOS-  
7                   ITS.—The net amount of deposit insurance pay-  
8                   able to any depositor at an insured depository  
9                   institution shall not exceed the standard max-  
10                  imum deposit insurance amount, as determined  
11                  in accordance with subparagraphs (C) through  
12                  (M).”;

13                  (B) by striking subparagraph (D) and in-  
14                  serting the following:

15                  “(D) COVERAGE FOR CERTAIN EMPLOYEE  
16                  BENEFIT PLAN DEPOSITS.—

17                   “(i) PASS-THROUGH INSURANCE.—  
18                   The Corporation shall provide pass-  
19                   through deposit insurance for the deposits  
20                   of any employee benefit plan.

21                   “(ii) PROHIBITION ON ACCEPTANCE  
22                   OF BENEFIT PLAN DEPOSITS.—An insured  
23                   depository institution that is not well cap-  
24                   italized or adequately capitalized may not  
25                   accept employee benefit plan deposits.

1           “(iii) DEFINITIONS.—For purposes of  
2 this subparagraph, the following definitions  
3 shall apply:

4           “(I) CAPITAL STANDARDS.—The  
5 terms ‘well capitalized’ and ‘ade-  
6 quately capitalized’ have the same  
7 meanings as in section 38.

8           “(II) EMPLOYEE BENEFIT  
9 PLAN.—The term ‘employee benefit  
10 plan’ has the same meaning as in  
11 paragraph (5)(B)(ii), and includes any  
12 eligible deferred compensation plan  
13 described in section 457 of the Inter-  
14 nal Revenue Code of 1986.

15           “(III) PASS-THROUGH DEPOSIT  
16 INSURANCE.—The term ‘pass-through  
17 deposit insurance’ means, with respect  
18 to an employee benefit plan, deposit  
19 insurance coverage based on the inter-  
20 est of each participant, in accordance  
21 with regulations issued by the Cor-  
22 poration.

23           “(E) STANDARD MAXIMUM DEPOSIT IN-  
24 SURANCE AMOUNT DEFINED.—For purposes of  
25 this paragraph, the term ‘standard maximum

1 deposit insurance amount' means, until April 1,  
2 2010, \$100,000.

3 “(F) DETERMINATION REGARDING INFLA-  
4 TION ADJUSTMENTS.—

5 “(i) ADJUSTMENTS TO STANDARD  
6 MAXIMUM DEPOSIT INSURANCE AMOUNT.—

7 Not later than April 1, 2010, and the first  
8 day of each 5-year period thereafter, the  
9 Board of Directors shall determine whether  
10 to increase the standard maximum deposit  
11 insurance amount based on the factors set  
12 forth under subparagraph (G).

13 “(ii) ADJUSTMENTS FOR CERTAIN RE-  
14 TIREMENT ACCOUNTS.—Not later than  
15 April 1, 2010, and the first day of each 5-  
16 year period thereafter, the Board of Direc-  
17 tors shall determine whether to increase  
18 the amount of insurance available for re-  
19 tirement accounts under paragraph (3),  
20 based on the factors set forth under sub-  
21 paragraph (G).

22 “(G) INFLATION ADJUSTMENT CONSIDER-  
23 ATIONS.—In making any determination under  
24 subparagraph (F), the Board of Directors shall  
25 consider—

1                   “(i) the economic conditions affecting  
2 insured depository institutions;

3                   “(ii) the overall risk or risks to the  
4 Deposit Insurance Fund;

5                   “(iii) a demonstrated need by deposi-  
6 tors for the inflation adjustment increase;

7                   “(iv) the ability of insured depository  
8 institutions to identify and obtain alter-  
9 native funding sources;

10                  “(v) the ability of insured depository  
11 institutions to meet the credit needs of  
12 their communities;

13                  “(vi) potential problems affecting in-  
14 sured depository institutions generally or a  
15 specific group or type of insured depository  
16 institutions; and

17                  “(vii) any other factors that the  
18 Board of Directors deems appropriate.

19                  “(H) INFLATION ADJUSTMENT CALCULA-  
20 TIONS FOR 2010.—

21                  “(i) CALCULATION FOR STANDARD  
22 MAXIMUM DEPOSIT INSURANCE AMOUNT.—  
23 The amount provided for any increase in  
24 the standard maximum deposit insurance

1 amount shall be, as of April 1, 2010, the  
2 product of—

3 “(I) \$100,000; and

4 “(II) the ratio of the value of the  
5 Personal Consumption Expenditures  
6 Chain-Type Index (or any successor  
7 index thereto), published by the De-  
8 partment of Commerce, for December  
9 31 of the year preceding the year in  
10 which the adjustment is calculated  
11 under this subparagraph, to the value  
12 of such index for December 31 of the  
13 year preceding the effective date of  
14 the Safe and Fair Deposit Insurance  
15 Act of 2005.

16 “(ii) CALCULATION FOR CERTAIN RE-  
17 TIREMENT ACCOUNTS FOR 2010.—The  
18 amount provided for any increase in the in-  
19 surance for retirement accounts under  
20 paragraph (3) shall be, as of April 1,  
21 2010, the product of—

22 “(I) \$250,000; and

23 “(II) the ratio of the value of the  
24 Personal Consumption Expenditures  
25 Chain-Type Index (or any successor

1 index thereto), published by the De-  
2 partment of Commerce, for December  
3 31 of the year preceding the year in  
4 which the adjustment is calculated  
5 under this subparagraph, to the value  
6 of such index for December 31 of the  
7 year preceding the effective date of  
8 the Safe and Fair Deposit Insurance  
9 Act of 2005.

10 “(I) INFLATION ADJUSTMENT CALCULA-  
11 TIONS AFTER 2010.—

12 “(i) CALCULATION FOR THE STAND-  
13 ARD MAXIMUM DEPOSIT INSURANCE  
14 AMOUNT.—The amount provided for any  
15 increase in the standard maximum deposit  
16 insurance amount shall be, as of the 1st  
17 day of each 5-year period beginning on  
18 April 1, 2015, the product of—

19 “(I) the standard maximum de-  
20 posit insurance amount; and

21 “(II) the ratio of the value of the  
22 Personal Consumption Expenditures  
23 Chain-Type Index (or any successor  
24 index thereto), published by the De-  
25 partment of Commerce, for December

1 31 of the year preceding the year in  
2 which the adjustment is calculated  
3 under this subparagraph, to the value  
4 of such index for December 31 of the  
5 6 years prior to the year in which the  
6 adjustment is calculated under this  
7 subparagraph.

8 “(ii) CALCULATION FOR CERTAIN RE-  
9 TIREMENT ACCOUNTS.—The amount pro-  
10 vided for any increase in the insurance for  
11 retirement accounts under paragraph (3)  
12 shall be, as of the 1st day of each 5-year  
13 period beginning on April 1, 2015, the  
14 product of—

15 “(I) the amount available for re-  
16 tirement accounts under paragraph  
17 (3), as adjusted pursuant to subpara-  
18 graph (H) or this subparagraph, as  
19 appropriate; and

20 “(II) the ratio of the value of the  
21 Personal Consumption Expenditures  
22 Chain-Type Index (or any successor  
23 index thereto), published by the De-  
24 partment of Commerce, for December  
25 31 of the year preceding the year in

1                   which the adjustment is calculated  
2                   under this subparagraph, to the value  
3                   of such index for December 31 of the  
4                   6 years prior to the year in which the  
5                   adjustment is calculated under this  
6                   subparagraph.

7                   “(J) DETERMINATION OF NO INFLATION  
8                   INCREASES.—If the Board cannot support an  
9                   increase under subparagraph (F) after consid-  
10                  eration of the factors in subparagraph (G), no  
11                  inflation adjustment shall be made until recon-  
12                  sideration at the beginning of the next 5-year  
13                  period.

14                  “(K) ROUNDING.—If the amount of in-  
15                  crease determined for any period is not a mul-  
16                  tiple of \$10,000, the amount so determined  
17                  shall be rounded to the nearest \$10,000.

18                  “(L) PUBLICATION.—Not later than April  
19                  1, 2010, and not later than the first day of  
20                  each 5-year period thereafter, the Board of Di-  
21                  rectors shall publish in the Federal Register the  
22                  standard maximum deposit insurance amount  
23                  and the amount of deposit insurance coverage  
24                  that may be due to any depositor at any in-

1           sured depository institution during the applica-  
2           ble 5-year period.

3           “(M) NO INFLATION ADJUSTMENTS FOR  
4           PUBLIC FUNDS.—Subparagraphs (E) through  
5           (L) shall not apply to any deposits of depositors  
6           described in paragraph (2), and the net amount  
7           due to any such depositor at an insured depository  
8           institution shall not exceed \$100,000.”.

9           (2) DEPOSIT INSURANCE FOR RETIREMENT AC-  
10          COUNTS.—Section 11(a)(3)(A) of the Federal De-  
11          posit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is  
12          amended—

13                 (A) by striking “\$100,000” and inserting  
14                 “\$250,000”; and

15                 (B) by inserting before the period at the  
16                 end the following: “which amount shall be sub-  
17                 ject to inflation adjustments as provided in  
18                 paragraph (1).”.

19           (3) TECHNICAL AND CONFORMING AMENDMENT  
20          RELATING TO INSURANCE OF TRUST FUNDS.—Sec-  
21          tion 7(i) of the Federal Deposit Insurance Act (12  
22          U.S.C. 1817(i)) is amended in each of paragraphs  
23          (1) and (3), by striking “\$100,000” each place it  
24          appears and inserting “the standard maximum de-

1       posit insurance amount (as determined under section  
2       11(a)(1))”.

3               (4) OTHER TECHNICAL AND CONFORMING  
4       AMENDMENTS.—The Federal Deposit Insurance Act  
5       (12 U.S.C. 1811 et seq.) is amended—

6               (A) in section 11(m)(6) (12 U.S.C.  
7       1821(m)(6)), by striking “\$100,000” and in-  
8       serting “the standard maximum deposit insur-  
9       ance amount (as determined under subsection  
10       (a)(1))”;

11              (B) in section 18 (12 U.S.C. 1828), by  
12       striking subsection (a) and inserting the fol-  
13       lowing:

14       “(a) INSURANCE LOGO.—

15              “(1) INSURED DEPOSITORY INSTITUTIONS.—

16              “(A) IN GENERAL.—Each insured depository  
17       institution shall display at each place of  
18       business maintained by that institution a sign  
19       or signs relating to the insurance of the depos-  
20       its of the institution, in accordance with regula-  
21       tions to be prescribed by the Corporation.

22              “(B) STATEMENT TO BE INCLUDED.—  
23       Each sign required under subparagraph (A)  
24       shall include a statement that insured deposits

1           are backed by the full faith and credit of the  
2           United States Government.

3           “(2) REGULATIONS.—The Corporation shall  
4           prescribe regulations to carry out this subsection, in-  
5           cluding regulations governing the substance of signs  
6           required by paragraph (1) and the manner of dis-  
7           play or use of such signs.

8           “(3) PENALTIES.—For each day that an in-  
9           sured depository institution continues to violate this  
10          subsection or any regulation issued under this sub-  
11          section, it shall be subject to a penalty of not more  
12          than \$100, which the Corporation may recover for  
13          its use.”; and

14                 (C) in section 43(d) (12 U.S.C. 1831t(d)),  
15                 by striking “\$100,000” and inserting “the  
16                 standard maximum deposit insurance amount  
17                 (as determined under section 11(a)(1))”.

18          (b) INSURED CREDIT UNIONS.—

19                 (1) IN GENERAL.—Section 207(k) of the Fed-  
20          eral Credit Union Act (12 U.S.C. 1787(k)) is  
21          amended—

22                 (A) by striking “(k)(1)” and all that fol-  
23                 lows through the end of paragraph (1) and in-  
24                 serting the following:

25                 “(k) INSURED AMOUNTS PAYABLE.—

1           “(1) NET INSURED AMOUNT.—

2                   “(A) IN GENERAL.—Subject to the provi-  
3                   sions of paragraph (2), the net amount of share  
4                   insurance payable to any member at an insured  
5                   credit union shall not exceed the total amount  
6                   of the shares or deposits in the name of the  
7                   member (after deducting offsets), less any part  
8                   thereof which is in excess of the standard max-  
9                   imum share insurance amount, as determined  
10                  in accordance with this paragraph and para-  
11                  graphs (5) and (6), and consistent with actions  
12                  taken by the Federal Deposit Insurance Cor-  
13                  poration under section 11(a) of the Federal De-  
14                  posit Insurance Act.

15                  “(B) AGGREGATION.—Determination of  
16                  the net amount of share insurance under sub-  
17                  paragraph (A), shall be in accordance with such  
18                  regulations as the Board may prescribe, and, in  
19                  determining the amount payable to any mem-  
20                  ber, there shall be added together all accounts  
21                  in the credit union maintained by that member  
22                  for that member’s own benefit, either in the  
23                  member’s own name or in the names of others.

24                  “(C) AUTHORITY TO DEFINE THE EXTENT  
25                  OF COVERAGE.—The Board may define, with

1 such classifications and exceptions as it may  
2 prescribe, the extent of the share insurance cov-  
3 erage provided for member accounts, including  
4 member accounts in the name of a minor, in  
5 trust, or in joint tenancy.”;

6 (B) by adding at the end the following:

7 “(4) COVERAGE FOR CERTAIN EMPLOYEE BEN-  
8 EFIT PLAN DEPOSITS.—

9 “(A) PASS-THROUGH INSURANCE.—The  
10 Administration shall provide pass-through share  
11 insurance for the deposits or shares of any em-  
12 ployee benefit plan, subject to subparagraph  
13 (B).

14 “(B) PROHIBITION ON ACCEPTANCE OF  
15 DEPOSITS.—An insured credit union that is not  
16 well capitalized or adequately capitalized may  
17 not accept employee benefit plan deposits.

18 “(C) DEFINITIONS.—For purposes of this  
19 paragraph, the following definitions shall apply:

20 “(i) CAPITAL STANDARDS.—The  
21 terms ‘well capitalized’ and ‘adequately  
22 capitalized’ have the same meanings as in  
23 section 216(c), as added by section 301 of  
24 the Credit Union Membership Access Act  
25 (Public Law 105–219, 112 Stat. 931).

1                   “(ii) EMPLOYEE BENEFIT PLAN.—

2                   The term ‘employee benefit plan’—

3                   “(I) has the same meaning as in  
4                   section 3(3) of the Employee Retirement  
5                   Income Security Act of 1974;

6                   “(II) includes any plan described  
7                   in section 401(d) of the Internal Revenue  
8                   Code of 1986; and

9                   “(III) includes any eligible de-  
10                  ferred compensation plan described in  
11                  section 457 of the Internal Revenue  
12                  Code of 1986.

13                  “(iii) PASS-THROUGH SHARE INSUR-  
14                  ANCE.—The term ‘pass-through share in-  
15                  surance’ means, with respect to an em-  
16                  ployee benefit plan, insurance coverage  
17                  based on the interest of each participant,  
18                  in accordance with regulations issued by  
19                  the Corporation.

20                  “(5) STANDARD MAXIMUM SHARE INSURANCE  
21                  AMOUNT DEFINED.—For purposes of this sub-  
22                  section, the term ‘standard maximum share insur-  
23                  ance amount’ means, until April 1, 2010, \$100,000.

24                  “(6) DETERMINATIONS REGARDING INFLATION  
25                  ADJUSTMENTS.—

1           “(A) ADJUSTMENTS TO STANDARD MAX-  
2           IMUM SHARE INSURANCE AMOUNT.—Not later  
3           than April 1, 2010, and the first day of each  
4           5-year period thereafter, the Board shall deter-  
5           mine whether to increase the standard max-  
6           imum share insurance amount based on the fac-  
7           tors set forth under paragraph (7).

8           “(B) ADJUSTMENT FOR CERTAIN RETIRE-  
9           MENT ACCOUNTS.—Not later than April 1,  
10          2010, and the first day of each 5-year period  
11          thereafter, the Board shall determine whether  
12          to increase the amount of insurance available  
13          for retirement accounts under paragraph (3),  
14          based on the factors set forth under paragraph  
15          (7).

16          “(7) INFLATION ADJUSTMENT CONSIDER-  
17          ATIONS.—In making any determination under para-  
18          graph (6), the Board shall consider—

19                 “(A) the economic conditions affecting in-  
20                 sured credit unions;

21                 “(B) the overall risk or risks to the Na-  
22                 tional Credit Union Share Insurance Fund;

23                 “(C) a demonstrated need by members for  
24                 the inflation adjustment increase;

1           “(D) the ability of insured credit unions to  
2 identify and obtain alternative funding sources;

3           “(E) the ability of insured credit unions to  
4 meet the credit needs of their communities;

5           “(F) potential problems affecting insured  
6 credit unions generally or a specific group or  
7 type of insured credit unions; and

8           “(G) any other factors that the Board  
9 deems appropriate.

10           “(8) INFLATION ADJUSTMENT CALCULATIONS  
11 FOR 2010.—

12           “(A) CALCULATION FOR STANDARD MAX-  
13 IMUM SHARE INSURANCE AMOUNT.—The  
14 amount provided for any increase in the stand-  
15 ard maximum share insurance amount shall be,  
16 as of April 1, 2010, the product of—

17           “(i) \$100,000; and

18           “(ii) the ratio of the value of the Per-  
19 sonal Consumption Expenditures Chain-  
20 Type Index (or any successor index there-  
21 to), published by the Department of Com-  
22 merce, for December 31 of the year pre-  
23 ceding the year in which the adjustment is  
24 calculated under this paragraph, to the  
25 value of such index for December 31 of the

1 year preceding the effective date of the  
2 Safe and Fair Deposit Insurance Act of  
3 2005.

4 “(B) CALCULATION FOR CERTAIN RETIRE-  
5 MENT ACCOUNTS FOR 2010.—The amount pro-  
6 vided for any increase in the insurance for re-  
7 tirement accounts under paragraph (3) shall be,  
8 as of April 1, 2010, the product of—

9 “(i) \$250,000; and

10 “(ii) the ratio of the value of the Per-  
11 sonal Consumption Expenditures Chain-  
12 Type Index (or any successor index there-  
13 to), published by the Department of Com-  
14 merce, for December 31 of the year pre-  
15 ceding the year in which the adjustment is  
16 calculated under this paragraph, to the  
17 value of such index for December 31 of the  
18 year preceding the effective date of the  
19 Safe and Fair Deposit Insurance Act of  
20 2005.

21 “(9) INFLATION ADJUSTMENT CALCULATIONS  
22 AFTER 2010.—

23 “(A) CALCULATION FOR THE STANDARD  
24 MAXIMUM SHARE INSURANCE AMOUNT.—The  
25 amount provided for any increase in the stand-

1           ard maximum share insurance amount shall be,  
2           as of the 1st day of each 5-year period begin-  
3           ning on April 1, 2015, the product of—

4                   “(i) the standard maximum share in-  
5                   surance amount; and

6                   “(ii) the ratio of the value of the Per-  
7                   sonal Consumption Expenditures Chain-  
8                   Type Index (or any successor index there-  
9                   to), published by the Department of Com-  
10                  merce, for December 31 of the year pre-  
11                  ceding the year in which the adjustment is  
12                  calculated under this paragraph, to the  
13                  value of such index for December 31 of the  
14                  6 years prior to the year in which the ad-  
15                  justment is calculated under this para-  
16                  graph.

17           “(B) CALCULATION FOR CERTAIN RETIRE-  
18           MENT ACCOUNTS.—The amount provided for  
19           any increase in the insurance for retirement ac-  
20           counts under paragraph (3) shall be, as of the  
21           1st day of each 5-year period beginning on  
22           April 1, 2015, the product of—

23                   “(i) the amount available for retire-  
24                   ment accounts under paragraph (3), as ad-

1           justed pursuant to paragraph (8) or this  
2           paragraph, as appropriate; and

3           “(ii) the ratio of the value of the Per-  
4           sonal Consumption Expenditures Chain-  
5           Type Index (or any successor index there-  
6           to), published by the Department of Com-  
7           merce, for December 31 of the year pre-  
8           ceding the year in which the adjustment is  
9           calculated under this paragraph, to the  
10          value of such index for December 31 of the  
11          6 years prior to the year in which the ad-  
12          justment is calculated under this para-  
13          graph.

14          “(10) DETERMINATION OF NO INFLATION IN-  
15          CREASE.—If the Board cannot support an increase  
16          under paragraph (6) after consideration of the fac-  
17          tors in paragraph (7), no inflation adjustment shall  
18          be made until reconsideration at the beginning of  
19          the next 5-year period.

20          “(11) ROUNDING.—If the amount of increase  
21          determined for any period is not a multiple of  
22          \$10,000, the amount so determined shall be rounded  
23          to the nearest \$10,000.

24          “(12) PUBLICATION.—Not later than April 1,  
25          2010, and not later than the first day of each 5-year

1 period thereafter, the Board shall publish in the  
2 Federal Register the standard maximum share in-  
3 surance amount and the amount of share insurance  
4 coverage that may be due to any depositor at any in-  
5 sured credit union during the applicable 5-year pe-  
6 riod.

7 “(13) NO INFLATION ADJUSTMENTS FOR PUB-  
8 LIC FUNDS.—Paragraphs (5) through (12) shall not  
9 apply to any deposits of depositors described in  
10 paragraph (2), and the net amount due to any such  
11 depositor at an insured credit union shall not exceed  
12 \$100,000.”; and

13 (C) in paragraph (3), by striking  
14 “\$100,000 per account” and inserting the fol-  
15 lowing: “\$250,000 per account, which amount  
16 shall be subject to inflation adjustments as pro-  
17 vided in paragraphs (6) through (12).”.

18 (2) TECHNICAL AMENDMENT.—Section 202(h)  
19 of the Federal Credit Union Act (12 U.S.C.  
20 1782(h)) is amended by striking “207(c)(1)” and in-  
21 serting “207(k)”.

22 (c) EFFECTIVE DATE.—Except as otherwise specifi-  
23 cally provided in this section or the amendments made by  
24 this section, this section and such amendments shall be-  
25 come effective on the effective date of the regulations re-

1 quired under section 2017(a)(2), relating to the implemen-  
2 tation of deposit insurance changes under this section.

3 **SEC. 2013. DESIGNATED RESERVE RATIO.**

4 (a) REPEAL OF RECAPITALIZATION SCHEDULE.—

5 (1) IN GENERAL.—Section 7(b)(3) of the Fed-  
6 eral Deposit Insurance Act (12 U.S.C. 1817(b)(3))  
7 is amended to read as follows:

8 “(3) DESIGNATED RESERVE RATIO.—

9 “(A) ACTION BY THE BOARD.—

10 “(i) IN GENERAL.—Before the begin-  
11 ning of each calendar year, the Board of  
12 Directors shall, subject to clause (ii)—

13 “(I) designate the reserve ratio  
14 applicable to the Deposit Insurance  
15 Fund for that year; and

16 “(II) publish the reserve ratio so  
17 designated.

18 “(ii) RULEMAKING.—Any change to  
19 the designated reserve ratio for any cal-  
20 endar year shall be made pursuant to sec-  
21 tion 553 of title 5, United States Code.

22 “(B) RANGE.—The reserve ratio des-  
23 igned by the Board of Directors for any  
24 year—

25 “(i) may not exceed 1.50 percent; and

1                   “(ii) may not be less than 1.15 per-  
2                   cent.

3                   “(C) FACTORS.—In designating a reserve  
4                   ratio for any year, the Board of Directors  
5                   shall—

6                   “(i) take into account the risk of  
7                   losses to the Deposit Insurance Fund in  
8                   that year and in future years;

9                   “(ii) take into account economic con-  
10                  ditions generally affecting insured deposi-  
11                  tory institutions, to provide for an increase  
12                  in the designated reserve ratio during more  
13                  favorable economic conditions and to pro-  
14                  vide for a decrease in the designated re-  
15                  serve ratio during less favorable economic  
16                  conditions, notwithstanding the increased  
17                  risks of loss that may exist during such  
18                  less favorable conditions, as determined to  
19                  be appropriate by the Board;

20                  “(iii) seek to prevent sharp swings in  
21                  the assessment rates for insured depository  
22                  institutions; and

23                  “(iv) take into account such other fac-  
24                  tors as the Board of Directors may deter-

1           mine to be appropriate, consistent with the  
2           requirements of this subparagraph.”.

3           (2) TECHNICAL AND CONFORMING AMEND-  
4           MENTS.—Section 3(y) of the Federal Deposit Insur-  
5           ance Act (12 U.S.C. 1813), as amended by this title,  
6           is amended by adding at the end the following:

7           “(2) RESERVE RATIO.—The term ‘reserve ratio’  
8           means the ratio of the fund balance of the Deposit  
9           Insurance Fund to aggregate estimated insured de-  
10          posits held in all insured depository institutions.

11          “(3) DESIGNATED RESERVE RATIO.—The term  
12          ‘designated reserve ratio’ means the reserve ratio  
13          designated by the Board of Directors under section  
14          7(b)(3).”.

15          (3) EFFECTIVE DATE.—Subject to paragraph  
16          (4), and except as otherwise provided, this sub-  
17          section and the amendments made by this subsection  
18          shall become effective on the effective date of the  
19          regulations required under section 2017(a)(1), relat-  
20          ing to designation of the reserve ratio by the Board.

21          (4) DESIGNATION OF INITIAL RESERVE RATIO  
22          FOR DEPOSIT INSURANCE FUND.—During the period  
23          beginning on the effective date of the merger of the  
24          deposit insurance funds under section 2003, and  
25          ending on the effective date of final regulations des-

1       ignating the reserve ratio, as required by section  
 2       2017(a)(1), the designated reserve ratio of the De-  
 3       posit Insurance Fund shall continue to be deter-  
 4       mined pursuant to section 7(b)(2)(A)(iv), as in ef-  
 5       fect on the day before the effective date of the merg-  
 6       er under section 2003.

7       (b) REQUIREMENTS APPLICABLE TO ANY MODIFICA-  
 8       TION OF THE RISK-BASED ASSESSMENT SYSTEM.—Sec-  
 9       tion 7(b)(1) of the Federal Deposit Insurance Act (12  
 10      U.S.C. 1817(b)(1)) is amended by adding at the end the  
 11      following:

12                               “(E) REQUIREMENTS APPLICABLE TO ANY  
 13                               MODIFICATION OF THE RISK-BASED ASSESS-  
 14                               MENT SYSTEM.—

15                               “(i) IN GENERAL.—In revising or  
 16                               modifying the risk-based assessment sys-  
 17                               tem at any time after the date of enact-  
 18                               ment of the Deposit Insurance Reform Act  
 19                               of 2005, the Board of Directors—

20                               “(I) may not make any change to  
 21                               the information collected from or re-  
 22                               quired to be retained by insured de-  
 23                               pository institutions solely for pur-  
 24                               poses of the assessment risk classifica-  
 25                               tion, as defined by regulations of the

1 Board, if the change would result in  
2 the imposition of an overall greater  
3 regulatory or reporting burden on in-  
4 sured depository institutions than was  
5 the case before that date of enact-  
6 ment; and

7 “(II) may implement any such  
8 revision or modification in final form  
9 only after notice and opportunity for  
10 comment.

11 “(ii) RULE OF CONSTRUCTION.—An  
12 increase in an assessment rate or a revi-  
13 sion of the assessment base shall not be  
14 considered to be a revision or modification  
15 resulting in greater regulatory or reporting  
16 burden for purposes of this subpara-  
17 graph.”.

18 **SEC. 2014. ASSESSMENT CREDITS AND DIVIDENDS.**

19 (a) IN GENERAL.—Section 7(e)(2) of the Federal De-  
20 posit Insurance Act (12 U.S.C. 1817(e)(2)) is amended  
21 to read as follows:

22 “(2) ONE-TIME CREDIT BASED ON TOTAL AS-  
23 SESSMENT BASE AT YEAR-END 1996.—

24 “(A) IN GENERAL.—The Board of Direc-  
25 tors shall, by regulation, provide for a credit to

1 each insured depository institution that was in  
2 existence on December 31, 1996, and that had  
3 paid a deposit insurance assessment prior to  
4 that date (or a successor insured depository in-  
5 stitution), based on the assessment base of the  
6 institution on that date, as compared to the  
7 combined aggregate assessment base of all such  
8 institutions, taking into account such factors as  
9 the Board may determine to be appropriate.

10 “(B) CREDIT LIMIT.—The aggregate  
11 amount of credits available under subparagraph  
12 (A) to all insured depository institutions that  
13 are eligible for the credit shall not exceed the  
14 amount that the Corporation could collect if it  
15 imposed an assessment of 9 basis points on the  
16 combined assessment base of the Bank Insur-  
17 ance Fund and the Savings Association Insur-  
18 ance Fund as of December 31, 2001.

19 “(C) DEFINITION OF SUCCESSOR.—The  
20 Corporation shall define the term ‘successor’ for  
21 purposes of this paragraph, by regulation, and  
22 may consider, among other factors and as the  
23 Board may deem appropriate, whether and to  
24 what extent, if any, an insured depository insti-  
25 tution that acquires deposits from another in-

1           sured depository institution may deemed to be  
2           a successor.

3           “(D) APPLICATION OF CREDITS.—The  
4           amount of a credit to any insured depository in-  
5           stitution under this paragraph may be applied  
6           by the Corporation to those portions of the as-  
7           sessments under subsection (b) applicable to  
8           that institution which become due for assess-  
9           ment periods beginning after the effective date  
10          of regulations required by subparagraph (A).”.

11          (b) AMENDMENTS TO SECTION 7.—Section 7(e) of  
12          the Federal Deposit Insurance Act (12 U.S.C. 1817(e))  
13          is amended by adding at the end the following new para-  
14          graphs:

15                 “(3) DIVIDENDS.—

16                         “(A) RESERVE RATIO IN EXCESS OF 1.50  
17                         PERCENT OF ESTIMATED INSURED DEPOSITS.—  
18                         The Corporation shall provide cash dividends to  
19                         insured depository institutions in accordance  
20                         with this paragraph if the reserve ratio of the  
21                         Deposit Insurance Fund exceeds the maximum  
22                         amount established under subsection  
23                         (b)(3)(B)(i), to the extent of that excess  
24                         amount.

1           “(B) AMOUNT EQUAL TO OR IN EXCESS OF  
2           1.40 PERCENT OF ESTIMATED INSURED DEPOS-  
3           ITS AND NOT MORE THAN 1.50 PERCENT.—The  
4           Corporation shall provide cash dividends to in-  
5           sured depository institutions in accordance with  
6           this paragraph if the reserve ratio of the De-  
7           posit Insurance Fund equals or exceeds 1.40  
8           and is not more than 1.50 percent, and that  
9           amount shall equal 50 percent of the amount in  
10          excess of the amount required to maintain the  
11          reserve ratio at 1.40 percent of the estimated  
12          insured deposits.

13          “(C) FACTORS FOR CONSIDERATION FOR  
14          ALLOCATION OF DIVIDENDS.—In implementing  
15          the provisions of this paragraph, and in accord-  
16          ance with its regulations, the Corporation shall  
17          consider—

18                 “(i) the ratio of the assessment base  
19                 of an insured depository institution (in-  
20                 cluding any predecessor institution) on De-  
21                 cember 31, 1996, to the assessment base  
22                 of all eligible insured depository institu-  
23                 tions on such date;

24                 “(ii) the total amount of assessments  
25                 paid on or after January 1, 1997, by an

1 insured depository institution (including  
2 any predecessor institution) to the Deposit  
3 Insurance Fund (and any predecessor de-  
4 posit insurance fund);

5 “(iii) that portion of assessments paid  
6 by an insured depository institution (in-  
7 cluding any predecessor institution) that  
8 reflects higher levels of risk assumed by  
9 such institution; and

10 “(iv) such other factors as the Cor-  
11 poration determines appropriate.

12 “(D) LIMITATION.—The Board of Direc-  
13 tors may suspend or limit dividends paid under  
14 subparagraph (B) if the Board determines in  
15 writing that—

16 “(i) a significant risk of losses to the  
17 Deposit Insurance Fund exists over the  
18 next one-year period; and

19 “(ii) it is likely that such losses will be  
20 sufficiently high as to justify a finding by  
21 the Board that the reserve ratio should  
22 temporarily be allowed—

23 “(I) to grow without requiring  
24 dividends under subparagraph (B); or

1                   “(II) to exceed the maximum  
2                   amount established under subsection  
3                   (b)(3)(B)(i).

4                   “(E) CONSIDERATIONS.—In making a de-  
5                   termination under subparagraph (D), the Board  
6                   shall consider—

7                   “(i) national and regional conditions  
8                   and their impact on insured depository in-  
9                   stitutions;

10                  “(ii) potential problems affecting in-  
11                  sured depository institutions or a specific  
12                  group or type of depository institution;

13                  “(iii) the degree to which the contin-  
14                  gent liability of the Corporation for antici-  
15                  pated failures of insured institutions ade-  
16                  quately addresses concerns over funding  
17                  levels in the Deposit Insurance Fund; and

18                  “(iv) any other factors that the Board  
19                  determines are appropriate.

20                  “(F) REPORT TO CONGRESS.—

21                  “(i) SUBMISSION.—Any determination  
22                  under subparagraph (D) shall be submitted  
23                  to the Committee on Banking, Housing,  
24                  and Urban Affairs of the Senate and the  
25                  Committee on Financial Services of the

1 House of Representatives, not later than  
2 270 days after making such determination.

3 “(ii) CONTENT.—The report sub-  
4 mitted under clause (i) shall include—

5 “(I) a detailed explanation for  
6 the determination; and

7 “(II) a discussion of the factors  
8 required to be considered under sub-  
9 paragraph (E).

10 “(G) REVIEW OF DETERMINATION.—

11 “(i) ANNUAL REVIEW.—A determina-  
12 tion to suspend or limit dividends under  
13 subparagraph (D) shall be reviewed by the  
14 Board of Directors annually.

15 “(ii) ACTION BY BOARD.—Based on  
16 each annual review under clause (i), the  
17 Board of Directors shall either renew or  
18 remove a determination to suspend or limit  
19 dividends under subparagraph (D), or shall  
20 make a new determination in accordance  
21 with this paragraph. Unless justified under  
22 the terms of the renewal or new determina-  
23 tion, the Corporation shall be required to  
24 provide cash dividends under subparagraph  
25 (A) or (B), as appropriate.

1           “(4) CHALLENGES TO CREDIT OR DIVIDEND  
 2           AMOUNTS.—The regulations required under this sub-  
 3           section shall include provisions allowing an insured  
 4           depository institution a reasonable opportunity to  
 5           challenge administratively the amount of its credit  
 6           or dividend under this subsection. The determination  
 7           of the Corporation of the amount of the credit or  
 8           dividend following such challenge shall be final, and  
 9           not subject to judicial review.”.

10          (c) EFFECTIVE DATE.—The amendments made by  
 11 this section shall become effective on the effective date of  
 12 the regulations required to be issued under section  
 13 2017(a)(3), relating to implementation of the one-time as-  
 14 sessment credit.

15 **SEC. 2015. ASSESSMENTS-RELATED RECORDS RETENTION**  
 16 **AND STATUTE OF LIMITATIONS.**

17          (a) RECORDS RETENTION.—Paragraph (5) of section  
 18 7(b) of the Federal Deposit Insurance Act (12 U.S.C.  
 19 1817(b)) is amended to read as follows:

20               “(5) RECORDS TO BE MAINTAINED BY INSURED  
 21               DEPOSITORY INSTITUTION.—Each insured depository  
 22               institution shall maintain all records that the  
 23               Corporation may require for verifying the correct-  
 24               ness of the institution’s assessments until the later  
 25               of—

1           “(A) 3 years from the due date of each as-  
2           sessment payment; or

3           “(B) the date of the final determination of  
4           any dispute between the insured depository in-  
5           stitution and the Corporation over the amount  
6           of any assessment.”.

7           (b) STATUTE OF LIMITATIONS FOR ASSESSMENT AC-  
8           TIONS.—Subsection (g) of section 7 of the Federal Deposit  
9           Insurance Act (12 U.S.C. 1817(g)) is amended to read  
10          as follows:

11          “(g) STATUTE OF LIMITATIONS FOR ASSESSMENT  
12          ACTIONS.—The Corporation, in any court of competent  
13          jurisdiction, shall be entitled to recover from any insured  
14          depository institution the amount of any unpaid assess-  
15          ment lawfully payable by such insured depository institu-  
16          tion. Notwithstanding any other provision in Federal law,  
17          or the law of any State—

18                 “(1) any action by an insured depository insti-  
19                 tution to recover from the Corporation the overpaid  
20                 amount of any assessment shall be brought within 3  
21                 years after the date the assessment payment was  
22                 due, subject to the exception in paragraph (5);

23                 “(2) any action by the Corporation to recover  
24                 from an insured depository institution the underpaid  
25                 amount of any assessment shall be brought within 3

1 years after the date the assessment payment was  
2 due, subject to the exceptions in paragraphs (3) and  
3 (5);

4 “(3) if an insured depository institution has  
5 made a false or fraudulent statement with intent to  
6 evade any or all of its assessment, the Corporation  
7 shall have until 3 years after the date of discovery  
8 of the false or fraudulent statement in which to  
9 bring an action to recover the underpaid amount;

10 “(4) assessment deposit information contained  
11 in records no longer required to be maintained pur-  
12 suant to subsection (b)(5) shall be considered con-  
13 clusive and not subject to change; and

14 “(5) any action for the underpaid or overpaid  
15 amount of any assessment that became due prior to  
16 the effective date of this subsection shall be subject  
17 to the statute of limitations for assessments in effect  
18 at the time the assessment became due.”.

19 **SEC. 2016. INCREASE IN FEES FOR LATE ASSESSMENT PAY-**  
20 **MENTS.**

21 Subsection (h) of section 18 of the Federal Deposit  
22 Insurance Act (12 U.S.C. 1828(h)) is amended—

23 (1) by striking “Any insured depository institu-  
24 tion” and inserting “(1) IN GENERAL.—Any insured  
25 depository institution”;

1           (2) in paragraph (1), as redesignated, by strik-  
2           ing “penalty of not more than \$100” and inserting  
3           “penalty in an amount of not more than 1 percent  
4           of the amount of the assessment due”; and

5           (3) by inserting new paragraphs (2) and (3) as  
6           follows:

7           “(2) EXCEPTION FOR SMALL ASSESSMENT  
8           AMOUNTS.—Notwithstanding paragraph (1), if the  
9           amount of the assessment for an insured depository  
10          institution is less than \$10,000 at the time such in-  
11          stitution fails or refuses to pay the assessment, such  
12          institution shall be subject to a penalty of not more  
13          than \$100 for each day that such violation con-  
14          tinues.

15          “(3) AUTHORITY TO MODIFY OR REMIT PEN-  
16          ALTY.—The Corporation, in the sole discretion of  
17          the Corporation, may compromise, modify, or remit  
18          any penalty which the Corporation may assess or  
19          has already assessed under paragraph (1) or (2)  
20          upon a finding that good cause prevented the timely  
21          payment of an assessment.”.

22 **SEC. 2017. REGULATIONS REQUIRED.**

23          (a) IN GENERAL.—Not later than 270 days after the  
24          date of enactment of this Act, the Board shall issue final

1 regulations, in accordance with section 553 of chapter 5  
2 of title 5, United States Code—

3 (1) designating the reserve ratio for the Deposit  
4 Insurance Fund, in accordance with section 7(b)(3)  
5 of the Federal Deposit Insurance Act, as amended  
6 by section 2013 of this subtitle, which regulations  
7 shall become effective not later than 90 days after  
8 the date of their publication in final form;

9 (2) implementing changes in deposit insurance  
10 coverage in accordance with the amendments made  
11 by section 2012, which regulations shall become ef-  
12 fective not later than 90 days after the date of their  
13 publication in final form;

14 (3) implementing the one-time assessment cred-  
15 it to certain insured depository institutions in ac-  
16 cordance with section 7(e)(2) of the Federal Deposit  
17 Insurance Act, as amended by section 2014 of this  
18 subtitle;

19 (4) establishing the qualifications and proce-  
20 dures under which the Corporation may provide divi-  
21 dends under section 7(e)(3) of the Federal Deposit  
22 Insurance Act, as amended by section 2014 of this  
23 subtitle; and

24 (5) providing for assessments under section 7 of  
25 the Federal Deposit Insurance Act, as amended by

1 this subtitle, which regulations shall become effective  
2 on the effective date of the regulations required by  
3 paragraph (3).

4 (b) SAVINGS CLAUSE.—

5 (1) IN GENERAL.—

6 (A) CONTINUATION OF EXISTING ASSESS-  
7 MENT REGULATIONS.—Nothing in this title or  
8 the amendments made by this title shall be con-  
9 strued to affect the authority of the Corpora-  
10 tion with regard to the setting or collection of  
11 deposit insurance assessments pursuant to any  
12 regulations in effect prior to the effective date  
13 of any regulations required under subsection  
14 (a).

15 (B) TREATMENT OF DIF MEMBERS UNDER  
16 EXISTING REGULATIONS.—Assessment regula-  
17 tions in effect prior to the date of enactment of  
18 this title shall be read as applying to members  
19 of the Deposit Insurance Fund rather than  
20 members of the Bank Insurance Fund or Sav-  
21 ings Association Insurance Fund, effective on  
22 or after the date on which merger of the deposit  
23 insurance funds becomes effective under title I.

24 (2) SETTING ASSESSMENTS.—Clause (i) of sec-  
25 tion 7(b)(2)(A) of the Federal Deposit Insurance

1 Act (12 U.S.C. 1817(b)(2)(A)) is amended by strik-  
2 ing “necessary—” and all that follows through the  
3 period at the end and inserting “necessary.”.

4 **SEC. 2018. STUDIES OF POTENTIAL CHANGES TO THE FED-**  
5 **ERAL DEPOSIT INSURANCE SYSTEM.**

6 (a) STUDY AND REPORT BY FDIC AND NCUA.—

7 (1) STUDY.—The Board of Directors of the  
8 Federal Deposit Insurance Corporation and the Na-  
9 tional Credit Union Administration Board shall each  
10 conduct a study of—

11 (A) the feasibility of increasing the limit  
12 on deposit insurance for deposits of municipali-  
13 ties and other units of general local govern-  
14 ment, and the potential benefits and the poten-  
15 tial adverse consequences that may result from  
16 any such increase; and

17 (B) the feasibility of establishing a vol-  
18 untary deposit insurance system for deposits in  
19 excess of the maximum amount of deposit in-  
20 surance for any depositor, and the potential  
21 benefits and the potential adverse consequences  
22 that may result from the establishment of any  
23 such system.

24 (2) REPORT.—Not later than 1 year after the  
25 date of enactment of this title, the Board of Direc-

1       tors of the Federal Deposit Insurance Corporation  
2       and the National Credit Union Administration  
3       Board shall each submit a report to the Congress on  
4       the study required under paragraph (1), containing  
5       the findings and conclusions of the reporting agency,  
6       together with such recommendations for legislative  
7       or administrative changes as the agency may deter-  
8       mine to be appropriate.

9       (b) STUDY AND REPORT REGARDING APPROPRIATE  
10 RESERVE RATIO.—

11           (1) STUDY.—The Corporation shall conduct a  
12       study on the feasibility of using alternatives to esti-  
13       mated insured deposits in calculating the reserve  
14       ratio of the Deposit Insurance Fund.

15           (2) REPORT.—Not later than 1 year after the  
16       date of enactment of this title, the Board shall sub-  
17       mit a report to Congress on the results of the study  
18       required under paragraph (1), together with such  
19       recommendations for legislative or administrative ac-  
20       tions as may be determined to be appropriate.

21 **SEC. 2019. EFFECTIVE DATE.**

22       Except as otherwise specifically provided in this sub-  
23       title, this subtitle and the amendments made by this sub-  
24       title shall become effective on the date of enactment of  
25       this Act.

## 1 **Subtitle C—FHA Asset Disposition**

### 2 **SEC. 2021. SHORT TITLE.**

3 This subtitle may be cited as the “FHA Asset Dis-  
4 position Act of 2005”.

### 5 **SEC. 2022. DEFINITIONS.**

6 For purposes of this subtitle—

7 (1) the term “affordability requirement” means  
8 any requirement or restriction imposed by the Sec-  
9 retary, at the time of sale, on any multifamily real  
10 property or multifamily loan, including a use restric-  
11 tion, rent restriction, or rehabilitation requirement;

12 (2) the term “discount sale” means the sale of  
13 multifamily real property in a transaction, including  
14 a negotiated sale, in which the sale price is—

15 (A) lower than the property market value;

16 and

17 (B) set outside of a competitive bidding  
18 process that has no affordability requirements;

19 (3) the term “discount loan sale” means the  
20 sale of a multifamily loan in a transaction, including  
21 a negotiated sale, in which the sale price is lower  
22 than the loan market value and is set outside of a  
23 competitive bidding process that has no affordability  
24 requirements;

1           (4) the term “loan market value” means the  
2 value of a multifamily loan, without taking into ac-  
3 count any affordability requirements;

4           (5) the term “multifamily real property” means  
5 any rental or cooperative housing project of 5 or  
6 more units owned by the Secretary that prior to ac-  
7 quisition by the Secretary was security for a loan or  
8 loans insured under title II of the National Housing  
9 Act;

10          (6) the term “multifamily loan” means a loan  
11 held by the Secretary and secured by a multifamily  
12 rental or cooperative housing project of 5 or more  
13 units that was formerly insured under title II of the  
14 National Housing Act;

15          (7) the term “property market value” means  
16 the value of any multifamily real property for its  
17 current use, without taking into account any afford-  
18 ability requirements; and

19          (8) the term “Secretary” means the Secretary  
20 of Housing and Urban Development.

21 **SEC. 2023. APPROPRIATED FUNDS REQUIREMENT FOR**  
22 **BELOW MARKET SALES.**

23          (a) DISPOSITIONS BY SECRETARY.—Notwithstanding  
24 any other provision of law, other than any statutory af-  
25 fordability requirement for the elderly and disabled, dis-

1 position by the Secretary of any multifamily real property  
2 through a discount sale under section 207(l) or 246 of  
3 the National Housing Act, section 203 of the Housing and  
4 Community Development Amendments of 1978, or section  
5 204 of the Departments of Veterans Affairs and Housing  
6 and Urban Development, and Independent Agencies Ap-  
7 propriations Act, 1997, shall be subject to the availability  
8 of appropriations to the extent that the property value ex-  
9 ceeds the sale proceeds. If the multifamily real property  
10 is sold for an amount equal to or greater than the property  
11 market value, the transaction is not subject to the avail-  
12 ability of appropriations.

13 (b) DISCOUNT LOAN SALES.—Notwithstanding any  
14 other provision of law, and in accordance with the Credit  
15 Reform Act of 1990, a discount loan sale under 207(k)  
16 of the National Housing Act, section 203(k) of the Hous-  
17 ing and Community Development Amendments of 1978,  
18 or section 204(a) of the Departments of Veterans Affairs  
19 and Housing and Urban Development, and Independent  
20 Agencies Appropriations Act, 1997, shall be subject to the  
21 availability of appropriations, to the extent that the loan  
22 value exceeds the sale proceeds. If the multifamily loan  
23 is sold for an amount equal to or greater than the loan  
24 market value, then the transaction is not subject to the  
25 availability of appropriations.

1 (c) LIMITATION.—This section shall not apply to any  
2 transaction that formally commences during the 1-year pe-  
3 riod preceding the date of enactment of this Act.

4 **SEC. 2024. UP-FRONT GRANTS.**

5 (a) VA–HUD.—Section 204(a) of the Departments  
6 of Veterans Affairs and Housing and Urban Development,  
7 and Independent Agencies Appropriations Act, 1997 (12  
8 U.S.C. 1715z–11a(a)) is amended by adding at the end  
9 the following: “A grant provided under this subsection  
10 shall be available only to the extent that appropriations  
11 are made in advance for such purpose, and shall not be  
12 derived from the General Insurance Fund.”.

13 (b) OTHER GRANT AUTHORITY.—Section 203(f) of  
14 the Housing and Community Development Amendments  
15 of 1978 (12 U.S.C. 1701z–11(f)) is amended—

16 (1) by striking paragraph (4); and

17 (2) by redesignating paragraphs (5) through  
18 (9) as paragraphs (4) through (8), respectively.

19 (c) LIMITATION.—The amendments made by this sec-  
20 tion shall not apply to any grant in connection with any  
21 transaction that formally commences during the 1-year pe-  
22 riod preceding the date of enactment of this Act.

23 **SEC. 2025. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated for fiscal  
25 year 2006, \$100,000,000 to carry out this subtitle.

1           **Subtitle D—Adaptive Housing**  
 2                           **Assistance**

3 **SEC. 2031. SHORT TITLE.**

4           This subtitle may be cited as the “Specially Adapted  
 5 Housing Grants Improvements Act of 2005”.

6 **SEC. 2032. ADAPTIVE HOUSING ASSISTANCE FOR DISABLED**  
 7                           **VETERANS RESIDING TEMPORARILY IN**  
 8                           **HOUSING OWNED BY A FAMILY MEMBER.**

9           (a) ASSISTANCE AUTHORIZED.—Chapter 21 of title  
 10 38, United States Code, is amended by inserting after sec-  
 11 tion 2102 the following new section:

12 **“§ 2102A. Assistance for veterans residing tempo-**  
 13                           **rarily in housing owned by a family mem-**  
 14                           **ber**

15           “(a) ASSISTANCE AUTHORIZED.—If a disabled vet-  
 16 eran described in subsection (a)(2) or (b)(2) of section  
 17 2101 of this title resides, but does not intend to perma-  
 18 nently reside, in a residence owned by a member of such  
 19 veteran’s family, the Secretary may assist the veteran in  
 20 acquiring such adaptations to such residence as are deter-  
 21 mined by the Secretary to be reasonably necessary because  
 22 of the veteran’s disability.

23           “(b) LIMITATION ON AMOUNT OF ASSISTANCE.—  
 24 Subject to section 2102(d) of this title, the assistance au-  
 25 thorized under subsection (a) may not exceed—

1           “(1) \$10,000, in the case of a veteran described  
2           in section 2101(a)(2) of this title; or

3           “(2) \$2,000, in the case of a veteran described  
4           in section 2101(b)(2) of this title.

5           “(c) LIMITATION ON NUMBER OF RESIDENCES SUB-  
6           JECT TO ASSISTANCE.—A veteran eligible for assistance  
7           authorized under subsection (a) may only be provided such  
8           assistance with respect to 1 residence.

9           “(d) REGULATIONS.—Assistance under this section  
10          shall be provided in accordance with such regulations as  
11          the Secretary may prescribe.

12          “(e) TERMINATION OF AUTHORITY.—The authority  
13          to provide assistance under subsection (a) shall expire at  
14          the end of the 5-year period beginning on the date of en-  
15          actment of the Specially Adapted Housing Grants Im-  
16          provements Act of 2005.”

17          (b) LIMITATIONS ON ADAPTIVE HOUSING ASSIST-  
18          ANCE.—Section 2102 of such title is amended—

19                 (1) in subsection (a), by striking “The assist-  
20                 ance authorized by section 2101(a)” and all that fol-  
21                 lows through “any one case—” and inserting “Sub-  
22                 ject to subsection (d), the assistance authorized  
23                 under section 2101(a) of this title shall be afforded  
24                 under 1 of the following plans, at the election of the  
25                 veteran—”;

1           (2) by amending subsection (b) to read as fol-  
2       lows:

3       “(b) Subject to subsection (d), and except as provided  
4 in section 2104(b) of this title, the assistance authorized  
5 by section 2101(b) of this title may not exceed the actual  
6 cost, or in the case of a veteran acquiring a residence al-  
7 ready adapted with special features, the fair market value,  
8 of the adaptations determined by the Secretary under such  
9 section 2101(b) to be reasonably necessary.”; and

10           (3) by adding at the end the following new sub-  
11       section:

12       “(d)(1) The aggregate amount of assistance available  
13 to a veteran under sections 2101(a) and 2102A of this  
14 title shall be limited to \$50,000.

15       “(2) The aggregate amount of assistance available to  
16 a veteran under sections 2101(b) and 2102A of this title  
17 shall be limited to the lesser of—

18           “(A) the sum of the cost or fair market value  
19       described in section 2102(b) of this title and the ac-  
20       tual cost of acquiring the adaptations described in  
21       subsection (a); and

22           “(B) \$10,000.

23       “(3) No veteran may receive more than 3 grants of  
24 assistance under this chapter.”.

1 (c) CLERICAL AMENDMENT.—The table of sections  
 2 at the beginning of such chapter of such title is amended  
 3 by inserting after the item relating to section 2102 the  
 4 following:

“2102A. Assistance for veterans residing temporarily in housing owned by family member.”.

5 **SEC. 2033. GAO REPORTS.**

6 (a) INTERIM REPORT.—Not later than 3 years after  
 7 the date of enactment of this Act, the Comptroller General  
 8 of the United States shall submit to Congress an interim  
 9 report on the implementation of section 2102A of title 38,  
 10 United States Code (as added by section 2(a)), by the De-  
 11 partment of Veterans Affairs.

12 (b) FINAL REPORT.—Not later than 5 years after the  
 13 date of enactment of this Act, the Comptroller General  
 14 of the United States shall submit to Congress a final re-  
 15 port on the implementation of such section 2102A by the  
 16 Department of Veterans Affairs.

17 **TITLE III—COMMITTEE ON COM-**  
 18 **MERCE, SCIENCE, AND**  
 19 **TRANSPORTATION**

20 **SEC. 3001. SHORT TITLE.**

21 This title may be cited as the “Digital Transition and  
 22 Public Safety Act of 2005.”.

1 **SEC. 3002. ANALOG SPECTRUM RECOVERY; HARD DEAD-**  
 2 **LINE.**

3 Section 309(j)(14) of the Communications Act of  
 4 1934 (47 U.S.C. 309(j)(14)) is amended—

5 (1) by striking “December 31, 2006.” in sub-  
 6 paragraph (A) and inserting “April 7, 2009.”;

7 (2) by striking subparagraph (B);

8 (3) by striking “or (B)” in subparagraph  
 9 (C)(i)(I);

10 (4) by striking “(C)(i),” in subparagraph (D)  
 11 and inserting “(B)(i),”; and

12 (5) by redesignating subparagraphs (C) and  
 13 (D) as subparagraphs (B) and (C), respectively.

14 **SEC. 3003. AUCTION OF RECOVERED SPECTRUM.**

15 (a) AUCTION: DATE, APPLICABLE REQUIRE-  
 16 MENTS.—Section 309(j)(15)(C) of the Communications  
 17 Act of 1934 (47 U.S.C. 309(j)(15)(C)) is amended by add-  
 18 ing at the end the following:

19 “(v) ADDITIONAL DEADLINES FOR RE-  
 20 COVERED ANALOG SPECTRUM.—Notwith-  
 21 standing subparagraph (B), the Commis-  
 22 sion shall—

23 “(I) conduct the auction of the li-  
 24 censes for recovered analog spectrum  
 25 commencing January 28, 2008;

1                   “(II) not later than 60 days after  
2                   the end of the pleading cycle for long-  
3                   form applications for such auction es-  
4                   tablished pursuant to part 1 of title  
5                   47, Code of Federal Regulations,  
6                   grant or deny such long-form applica-  
7                   tions and issue the licenses for such  
8                   recovered analog spectrum to each  
9                   successful bidder whose long-form ap-  
10                  plication is granted; and

11                  “(III) collect and deposit the pro-  
12                  ceeds of such auction in the Digital  
13                  Transition and Public Safety Fund  
14                  established by section 3005 of the  
15                  Digital Transition and Public Safety  
16                  Act of 2005.

17                  “(vi) RECOVERED ANALOG SPEC-  
18                  TRUM.—For purposes of this subpara-  
19                  graph, the term ‘recovered analog spec-  
20                  trum’ means spectrum reclaimed from the  
21                  analog television service under paragraph  
22                  (14), except—

23                  “(I) spectrum required by section  
24                  337 to be made available for public  
25                  safety services; and

1                   “(II) spectrum auctioned prior to  
2                   the date of enactment of the Digital  
3                   Transition and Public Safety Act of  
4                   2005.”.

5           (b) EXTENSION OF AUCTION AUTHORITY.—Para-  
6 graph (11) of section 309(j) of the Communications Act  
7 of 1934 (47 U.S.C. 309(j)(11)) is amended by striking  
8 “September 30, 2007.” and inserting “September 30,  
9 2009.”.

10 **SEC. 3004. SUPPLEMENTAL LICENSE FEES.**

11           In addition to any fees assessed under the Commu-  
12 nications Act of 1934 (47 U.S.C. 151 et seq.), the Com-  
13 mission shall assess extraordinary fees for licenses in the  
14 aggregate amount of \$10,000,000, which shall be depos-  
15 ited in the Treasury during fiscal year 2006 as offsetting  
16 receipts.

17 **SEC. 3005. DIGITAL TRANSITION AND PUBLIC SAFETY**  
18 **FUND.**

19           (a) ESTABLISHMENT.—There is established in the  
20 Treasury of the United States a fund called the Digital  
21 Transition and Public Safety Fund.

22           (b) DEPOSIT OF AUCTION PROCEEDS.—The Com-  
23 mission shall deposit the proceeds of the auction author-  
24 ized by section 309(j)(15)(C)(v) of the Communications

1 Act of 1934 (47 U.S.C. 309(j)(15)(C)(v)) in the Fund as  
2 required by item (III) of that section.

3 (c) PAYMENTS AUTHORIZED.—The Secretary of  
4 Commerce or the Secretary's designee shall make pay-  
5 ments from the Fund in the following amounts, for the  
6 following programs, and in the following order:

7 (1) Not to exceed \$3,000,000,000 for a pro-  
8 gram to assist consumers in the purchase of con-  
9 verter boxes that convert a digital television signal to  
10 an analog television signal, and any amounts unex-  
11 pended or unobligated at the conclusion of the pro-  
12 gram shall be used for the program described in  
13 paragraph (3).

14 (2) Not to exceed \$200,000,000 for a program  
15 to convert low-power television stations and tele-  
16 vision translator stations from analog to digital, and  
17 any amounts unexpended or unobligated at the con-  
18 clusion of the program shall be used for the program  
19 described in paragraph (3).

20 (3) Not to exceed \$1,250,000,000 for a pro-  
21 gram to facilitate emergency communications, of  
22 which \$1,000,000,000 shall be used for an interoper-  
23 ability fund and \$250,000,000 shall be used to im-  
24 plement a national alert system, of which

1       \$50,000,000 shall be used for tsunami warning and  
2       coastal vulnerability programs.

3           (4) Not to exceed \$250,000,000 for a program  
4       to implement the ENHANCE 911 Act of 2004 (47  
5       U.S.C. 942 note).

6           (5) Not to exceed \$200,000,000 for a program  
7       to provide assistance to coastal States and Indian  
8       tribes affected by hurricanes and other coastal disas-  
9       ters.

10       (d) TRANSFER OF AMOUNT TO TREASURY.—On Oc-  
11       tober 2, 2009, Secretary shall transfer \$5,000,000,000  
12       from the Fund to the general fund of the Treasury.

13       (e) OBLIGATION TIME PERIOD.—Any amounts that  
14       are to be paid from the Fund under subsection (c) shall  
15       be obligated no later than September 14, 2010. The Sec-  
16       retary may not obligate any amounts from the Fund until  
17       the proceeds of the auction authorized by section  
18       309(j)(15)(C)(v) are actually deposited by the Commission  
19       pursuant to subsection (b). Any amount in the Fund that  
20       is not obligated under subsection (c) by that date shall  
21       be transferred to the general fund of the Treasury.

22       (f) USE OF EXCESS PROCEEDS.—Any proceeds of the  
23       auction authorized by section 309(j)(15)(C)(v) of the  
24       Communications Act of 1934, as added by section 3003  
25       of this Act, that exceed the sum of the payments made

1 from the Fund under subsection (c), the transfer from the  
2 Fund under subsection (d), and any amount made avail-  
3 able under section 3006 (referred to in this subsection as  
4 “excess proceeds”), shall be distributed as follows:

5 (1) The first \$1,000,000,000 of excess proceeds  
6 shall be transferred to and deposited in the general  
7 fund of the Treasury as miscellaneous receipts.

8 (2) After the transfer under paragraph (1), the  
9 next \$500,000,000 of excess proceeds shall be trans-  
10 ferred to the interoperability fund described in sub-  
11 section (c)(3).

12 (3) After the transfers under paragraphs (1)  
13 and (2), the next \$1,200,000,000 of excess proceeds  
14 shall be transferred to the assistance program de-  
15 scribed in subsection (c)(5).

16 (4) After the transfers under paragraphs (1)  
17 through (3), any remaining excess proceeds shall be  
18 transferred to and deposited in the general fund of  
19 the Treasury as miscellaneous receipts.

20 **SEC. 3005A. COMMUNICATION SYSTEM GRANTS.**

21 (a) **DEFINITIONS.**—In this section—

22 (1) the term “demonstration project” means  
23 the demonstration project established under sub-  
24 section (b)(1);

1           (2) the term “Department” means the Depart-  
2           ment of Homeland Security;

3           (3) the term “emergency response provider”  
4           has the meaning given that term in section 2(6) the  
5           Homeland Security Act of 2002 (6 U.S.C. 101(6));  
6           and

7           (4) the term “Secretary” means the Secretary  
8           of Homeland Security.

9           (b) IN GENERAL.—

10           (1) ESTABLISHMENT.—There is established in  
11           the Department an “International Border Commu-  
12           nity Interoperable Communications Demonstration  
13           Project”.

14           (2) MINIMUM NUMBER OF COMMUNITIES.—The  
15           Secretary shall select not fewer than 2 communities  
16           to participate in a demonstration project.

17           (3) LOCATION OF COMMUNITIES.—Not fewer  
18           than 1 of the communities selected under paragraph  
19           (2) shall be located on the northern border of the  
20           United States and not fewer than 1 of the commu-  
21           nities selected under paragraph (2) shall be located  
22           on the southern border of the United States.

23           (c) PROJECT REQUIREMENTS.—The demonstration  
24           projects shall—

1           (1) address the interoperable communications  
2 needs of police officers, firefighters, emergency med-  
3 ical technicians, National Guard, and other emer-  
4 gency response providers;

5           (2) foster interoperable communications—

6               (A) among Federal, State, local, and tribal  
7 government agencies in the United States in-  
8 volved in preventing or responding to terrorist  
9 attacks or other catastrophic events; and

10              (B) with similar agencies in Canada and  
11 Mexico;

12           (3) identify common international cross-border  
13 frequencies for communications equipment, including  
14 radio or computer messaging equipment;

15           (4) foster the standardization of interoperable  
16 communications equipment;

17           (5) identify solutions that will facilitate commu-  
18 nications interoperability across national borders ex-  
19 peditiously;

20           (6) ensure that emergency response providers  
21 can communicate with each another and the public  
22 at disaster sites or in the event of a terrorist attack  
23 or other catastrophic event;

1           (7) provide training and equipment to enable  
2 emergency response providers to deal with threats  
3 and contingencies in a variety of environments; and

4           (8) identify and secure appropriate joint-use  
5 equipment to ensure communications access.

6           (d) DISTRIBUTION OF FUNDS.—

7           (1) IN GENERAL.—The Secretary shall dis-  
8 tribute funds under this section to each community  
9 participating in a demonstration project through the  
10 State, or States, in which each community is lo-  
11 cated.

12           (2) OTHER PARTICIPANTS.—Not later than 60  
13 days after receiving funds under paragraph (1), a  
14 State receiving funds under this section shall make  
15 the funds available to the local governments and  
16 emergency response providers participating in a  
17 demonstration project selected by the Secretary.

18           (e) FUNDING.—Amounts made available from the  
19 interoperability fund under section 3005(c)(3) shall be  
20 available to carry out this section without appropriation.

21           (f) REPORTING.—Not later than December 31, 2005,  
22 and each year thereafter in which funds are appropriated  
23 for a demonstration project, the Secretary shall provide  
24 to the Committee on Homeland Security and Govern-  
25 mental Affairs of the Senate and the Committee on Home-

1 land Security of the House of Representatives a report on  
2 the demonstration projects under this section.

3 **SEC. 3006. ESSENTIAL AIR SERVICE PROGRAM.**

4 (a) IN GENERAL.—If the amount appropriated to  
5 carry out the essential air service program under sub-  
6 chapter II of chapter 417 of title 49, United States Code,  
7 equals or exceeds \$110,000,000 for fiscal year 2006,  
8 2007, 2008, 2009, or 2010, then the Secretary of Com-  
9 merce shall make \$15,000,000 available from the Digital  
10 Transition and Public Safety Fund available to the Sec-  
11 retary of Transportation for use in carrying out the essen-  
12 tial air service program for that fiscal year.

13 (b) APPLICATION WITH OTHER FUNDS.—Amounts  
14 made available under subsection (a) for any fiscal year  
15 shall be in addition to any amounts—

16 (1) appropriated for that fiscal year; or

17 (2) derived from fees collected pursuant to sec-  
18 tion 45301(a)(1) of title 49, United States Code,  
19 that are made available for obligation and expendi-  
20 ture to carry out the essential air service program  
21 for that fiscal year.

22 **TITLE IV—ENERGY AND**  
23 **NATURAL RESOURCES**

24 **SEC. 4001. OIL AND GAS LEASING PROGRAM.**

25 (a) DEFINITIONS.—In this section:

1           (1) COASTAL PLAIN.—The term “Coastal  
2 Plain” means the area identified as the Coastal  
3 Plain on the map prepared by the United States Ge-  
4 ological Survey, entitled “Arctic National Wildlife  
5 Refuge 1002 Coastal Plain Area”, dated September  
6 2005, and on file with the United States Geological  
7 Survey.

8           (2) SECRETARY.—The term “Secretary” means  
9 the Secretary of the Interior, acting through the Bu-  
10 reau of Land Management.

11 (b) PROGRAM.—

12           (1) IN GENERAL.—Congress—

13                   (A) authorizes the leasing, development,  
14 production, and transportation of oil and gas in  
15 and from the Coastal Plain; and

16                   (B) directs the Secretary to take such ac-  
17 tions as are necessary to—

18                           (i) establish and implement an envi-  
19 ronmentally sound competitive oil and gas  
20 leasing program to carry out the activities  
21 authorized under subparagraph (A); and

22                           (ii) conduct 2 lease sales before Octo-  
23 ber 1, 2010.

24           (2) ADMINISTRATION.—The Secretary shall ad-  
25 minister this section through regulations, lease

1 terms, conditions, restrictions, prohibitions, stipula-  
2 tions, and other provisions that ensure the oil and  
3 gas exploration, development, production, and trans-  
4 portation activities on the Coastal Plain are carried  
5 out in a manner that will ensure the receipt of fair  
6 market value by the public for the mineral resources  
7 to be leased.

8 (c) LEASE SALES BEFORE FISCAL YEAR 2011.—

9 (1) IN GENERAL.—In order to enable the Sec-  
10 retary to hold 2 lease sales before October 1, 2010,  
11 this subsection shall apply with respect to the oil  
12 and gas leasing program established by the Sec-  
13 retary pursuant to this section.

14 (2) PURPOSES.—For purposes of the National  
15 Wildlife Refuge System Administration Act of 1966  
16 (16 U.S.C. 668dd et seq.) and amendments made by  
17 that Act, the oil and gas leasing program and activi-  
18 ties authorized by this section in the Coastal Plain  
19 are deemed to be compatible with the purposes for  
20 which the Arctic National Wildlife Refuge was estab-  
21 lished, and no further findings or decisions are re-  
22 quired to implement this determination of compat-  
23 ibility.

24 (3) PRELEASE ACTIVITIES.—The Final Legisla-  
25 tive Environmental Impact Statement on the Coastal

1 Plain dated April 1987 and prepared pursuant to  
2 section 1002 of the Alaska National Interest Lands  
3 Conservation Act (16 U.S.C. 3142) and section  
4 102(2)(C) of the National Environmental Policy Act  
5 of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy  
6 the requirements under the National Environmental  
7 Policy Act of 1969 (42 U.S.C. 4321 et seq.) that  
8 apply with respect to prelease activities, including  
9 actions authorized to be taken by the Secretary to  
10 develop and promulgate regulations for the establish-  
11 ment of the leasing program authorized by this sec-  
12 tion before the conduct of the first lease sale.

13 (4) PREFERRED ACTION.—

14 (A) NONLEASING ALTERNATIVES.—With  
15 respect to any environmental impact statement  
16 prepared by the Secretary under the National  
17 Environmental Policy Act of 1969 (42 U.S.C.  
18 4321 et seq.) with respect to any lease sale con-  
19 ducted under the leasing program authorized by  
20 this section, the Secretary is not required to  
21 identify nonleasing alternative courses of action  
22 or to analyze the environmental effects of those  
23 courses of action.

24 (B) LEASING ALTERNATIVES.—The Sec-  
25 retary shall only identify a preferred action for

1 leasing and a single leasing alternative, and  
2 analyze the environmental effects and potential  
3 mitigation measures for the preferred action  
4 and leasing alternative.

5 (C) DEADLINE.—The identification and re-  
6 lated analyses required by subparagraph (B)  
7 shall be completed within 18 months after the  
8 date of enactment of this Act.

9 (D) PUBLIC COMMENTS.—The Secretary  
10 shall only consider public comments that are  
11 filed within 30 days after publication of an en-  
12 vironmental analysis.

13 (E) COMPLIANCE.—Compliance with this  
14 paragraph satisfies all requirements of section  
15 102(2)(C) of the National Environmental Policy  
16 Act of 1969 (42 U.S.C. 4332(2)(C)) for the  
17 analysis and consideration of the environmental  
18 effects of proposed leasing under this section.

19 (5) EXPEDITED JUDICIAL REVIEW.—

20 (A) VENUE; DEADLINE.—Any complaint  
21 seeking judicial review of this section or any ac-  
22 tion of the Secretary under this section shall be  
23 filed in the United States Court of Appeals for  
24 the District of Columbia—

1 (i) within the 90-day period beginning  
2 on the date of the action being challenged;

3 or

4 (ii) in the case of a complaint based  
5 solely on grounds arising after that period,  
6 within 90 days after the complainant knew  
7 or reasonably should have known of the  
8 grounds for the complaint.

9 (B) SCOPE.—Judicial review of a decision  
10 of the Secretary to conduct a lease sale under  
11 this section (including the environmental anal-  
12 ysis of the decision) shall be—

13 (i) limited to whether the Secretary  
14 has complied with this section; and

15 (ii) based on the administrative record  
16 of that decision.

17 (d) RECEIPTS.—Notwithstanding any other provision  
18 of law, of the amount of adjusted bonus, rental, and roy-  
19 alty receipts derived from oil and gas leasing and oper-  
20 ations authorized under this section—

21 (1) 50 percent shall be paid to the State of  
22 Alaska; and

23 (2) the balance shall be deposited into the  
24 Treasury as miscellaneous receipts.

1 (e) RIGHTS-OF-WAY.—For purposes of section  
 2 1102(4)(A) of the Alaska National Interest Lands Con-  
 3 servation Act (16 U.S.C. 3162(4)(A)), any rights-of-way  
 4 or easements across the Coastal Plain for the exploration,  
 5 development, production, or transportation of oil and gas  
 6 shall be considered to be established incident to the man-  
 7 agement of the Coastal Plain under this section.

8 (f) MAXIMUM SURFACE ACREAGE.—In administering  
 9 this section, the Secretary shall ensure that the maximum  
 10 quantity of surface acreage covered by production and  
 11 support facilities (including airstrips and any area covered  
 12 by gravel berms or piers for support of pipelines) does not  
 13 exceed 2,000 acres on the Coastal Plain.

14 (g) PROHIBITION ON EXPORTS.—An oil or gas lease  
 15 issued under this title shall prohibit the exportation of oil  
 16 or gas produced under the lease.

17 **TITLE V—COMMITTEE ON ENVI-**  
 18 **RONMENT AND PUBLIC**  
 19 **WORKS**

20 **SEC. 5001. TECHNICAL CORRECTIONS TO SAFETEA-LU.**

21 (a)(1) Notwithstanding any other provision of law,  
 22 the amount of \$639,000,000 described in section  
 23 1102(b)(10) of the Safe, Accountable, Flexible, Efficient  
 24 Transportation Equity Act: A Legacy for Users (119 Stat.  
 25 1144), shall be considered to be—

1 (A) for fiscal year 2006 only, \$631,000,000;

2 and

3 (B) for fiscal year 2007 only, \$647,000,000.

4 (2) Notwithstanding any other provision of law, the  
5 amount of \$2,639,000,000 described in section 1102(c)(6)  
6 of the Safe, Accountable, Flexible, Efficient Transpor-  
7 tation Equity Act: A Legacy for Users (119 Stat. 1144),  
8 shall be considered to be—

9 (A) for fiscal year 2006 only, \$2,631,000,000;

10 and

11 (B) for fiscal year 2007 only, \$2,647,000,000.

12 (b) Section 4409 of the Safe, Accountable, Flexible,  
13 Efficient Transportation Equity Act: A Legacy for Users  
14 (119 Stat. 1144) is amended—

15 (1) by striking “Section” and inserting the fol-  
16 lowing:

17 “(a) IN GENERAL.—Section”; and

18 (2) by adding at the end the following:

19 “(b) EFFECTIVE DATE.—The amendments made by  
20 this section shall take effect on December 31, 2008.”.

21 **TITLE VI—COMMITTEE ON**  
22 **FINANCE**

23 **SEC. 6000. AMENDMENTS TO SOCIAL SECURITY ACT.**

24 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
25 cept as otherwise specifically provided, whenever in this

1 title an amendment is expressed in terms of an amend-  
 2 ment to or repeal of a section or other provision, the ref-  
 3 erence shall be considered to be made to that section or  
 4 other provision of the Social Security Act.

5 (b) REFERENCES TO THE SECRETARY.—In this title,  
 6 the term “Secretary” means the Secretary of Health and  
 7 Human Services.

## 8 **Subtitle A—Medicaid**

### 9 **CHAPTER 1—PAYMENT FOR**

### 10 **PRESCRIPTION DRUGS UNDER MEDICAID**

#### 11 **SEC. 6001. PHARMACY REIMBURSEMENT.**

12 (a) DEFINITION OF AVERAGE MANUFACTURER  
 13 PRICE.—

14 (1) IN GENERAL.—Section 1927(k)(1) (42  
 15 U.S.C. 1396r–8(k)(1)) is amended—

16 (A) in the paragraph heading, by striking  
 17 “PRICE” and inserting “PRICE; WEIGHTED AV-  
 18 ERAGE MANUFACTURER PRICE”;

19 (B) by striking “The term” and inserting  
 20 the following:

21 “(A) IN GENERAL.—The term”; and

22 (C) by adding at the end the following:

23 “(B) CALCULATION REQUIREMENTS.—For  
 24 purposes of subparagraph (A), the average

1 manufacturer price shall be calculated accord-  
2 ing to the following:

3 “(i) SALES EXEMPTED FROM COM-  
4 PUTATION.—Without regard to—

5 “(I) sales exempt from inclusion  
6 in the determination of best price  
7 under subsection (c)(1)(C)(i);

8 “(II) such other sales as the Sec-  
9 retary identifies as sales to an entity  
10 that are merely nominal in amount  
11 under subsection (c)(1)(C)(ii)(III);  
12 and

13 “(III) bona fide service fees (as  
14 defined in subparagraph (E)) that are  
15 paid by a manufacturer to an entity,  
16 that represent fair market value for a  
17 bona fide service, and that are not  
18 passed on in whole or in part to a cli-  
19 ent or customer of an entity.

20 “(ii) SALE PRICE NET OF DIS-  
21 COUNTS.—By including the following:

22 “(I) Cash discounts and volume  
23 discounts.

1           “(II) Free goods that are contin-  
2           gent upon any purchase requirement  
3           or agreement.

4           “(III) Sales at a nominal price  
5           that are contingent upon any pur-  
6           chase requirement or agreement.

7           “(IV) Chargebacks, rebates pro-  
8           vided to a pharmacy (including a mail  
9           order pharmacy but excluding a phar-  
10          macy benefit manager), or any other  
11          direct or indirect discounts.

12          “(V) Any other price concessions,  
13          which may be based on recommenda-  
14          tions of the Inspector General of the  
15          Department of Health and Human  
16          Services, that would result in a reduc-  
17          tion of the cost to the purchaser, but  
18          only if the Secretary provides notice  
19          of the Secretary’s intent to include  
20          such price concessions in accordance  
21          with section 553 of title 5, United  
22          States Code.

23          “(C) WEIGHTED AVERAGE MANUFAC-  
24          TURER PRICE.—The term ‘weighted average  
25          manufacturer price’ means, with respect to a

1           rebate period and multiple source drug, the vol-  
 2           ume-weighted average of the average manufac-  
 3           turer prices reported under subsection  
 4           (b)(3)(A)(i)(I) for all drug products described  
 5           in paragraph (7)(A)(i) that are therapeutically  
 6           equivalent and bioequivalent forms of the drug,  
 7           determined by—

8                   “(i) computing the sum of the prod-  
 9                   ucts (for each National Drug Code as-  
 10                   signed to such drug products) of—

11                           “(I) the average manufacturer  
 12                           price; and

13                           “(II) the total number of units  
 14                           reported sold under subsection  
 15                           (b)(3)(A)(i)(I); and

16                   “(ii) dividing the sum determined  
 17                   under clause (i) by the sum of the total  
 18                   number of units under clause (i)(II) for all  
 19                   National Drug Codes assigned to such  
 20                   drug products.

21                   “(D) LIMITATION ON SALES AT A NOMINAL  
 22                   PRICE.—

23                           “(i) IN GENERAL.—For purposes of  
 24                           clauses (i)(II) and (ii)(III) of subpara-  
 25                           graph (B), only sales by a manufacturer of

1 covered outpatient drugs that are single  
2 source drugs, innovator multiple source  
3 drugs, or authorized generic drugs at  
4 nominal prices to the following shall be  
5 considered to be sales at a nominal price or  
6 merely nominal in amount:

7 “(I) A covered entity described in  
8 section 340B(a)(4) of the Public  
9 Health Service Act.

10 “(II) An intermediate care facil-  
11 ity for the mentally retarded.

12 “(III) A State-owned or operated  
13 nursing facility.

14 “(IV) Any other facility or entity  
15 that the Secretary determines is a  
16 safety net provider to which sales of  
17 such drugs at a nominal price would  
18 be appropriate based on the following  
19 factors:

20 “(aa) The type of facility.

21 “(bb) The services provided  
22 by the facility.

23 “(cc) The patient population  
24 served by the facility.

1                   “(dd) The number of other  
2                   facilities eligible to purchase at  
3                   nominal prices in the same serv-  
4                   ice area.

5                   “(ii) NONAPPLICATION.—Clause (i)  
6                   shall not apply with respect to sales by a  
7                   manufacturer at a nominal price of covered  
8                   outpatient drugs that are single source  
9                   drugs, innovator multiple source drugs, or  
10                  authorized generic drugs pursuant to a  
11                  master agreement under section 8126 of  
12                  title 38, United States Code.

13                  “(E) BONA FIDE SERVICE FEES.—For  
14                  purposes of subparagraph (B)(i)(III), the term  
15                  ‘bona fide service fees’ means expenses that are  
16                  for an itemized service actually performed by an  
17                  entity on behalf of a manufacturer that would  
18                  have generally been paid for by the manufac-  
19                  turer at the same rate had these services been  
20                  performed by another entity.”.

21                  (2) CONFORMING AMENDMENTS.—Section  
22                  1927(b)(3)(A)(i) (42 U.S.C. 1396r–8(b)(3)(A)(i)),  
23                  as amended by section 6003(a), is amended—

24                                 (A) in subclause (I)—

1 (i) by inserting “and the total number  
2 of units sold” after “(as defined in sub-  
3 section (k)(1))”; and

4 (ii) by striking “and” at the end;

5 (B) in subclause (II), by adding “and” at  
6 the end; and

7 (C) by adding at the end the following:

8 “(III) information and data on  
9 any sales that were made during such  
10 period at a nominal price, including,  
11 with respect to each such sale, the  
12 purchaser, the name of the product,  
13 the amount or number of units of the  
14 product sold at a nominal price, and  
15 the nominal price paid;”.

16 (3) EFFECTIVE DATE.—

17 (A) IN GENERAL.—Except as provided in  
18 subparagraph (B), the amendments made by  
19 this subsection shall take effect on January 1,  
20 2006.

21 (B) EXCEPTION.—Subparagraph (D) of  
22 section 1927(k)(1) of the Social Security Act  
23 (42 U.S.C. 1396r–8(k)(1)) (as added by para-  
24 graph (1)) shall not apply with respect to a con-  
25 tract in effect on the date of enactment of this

1 Act pursuant to which pharmaceutical products  
2 are or may be available at nominal prices until  
3 the expiration date of such contract, or October  
4 1, 2006, whichever is earlier, and shall apply to  
5 sales made, and rebate periods beginning, on or  
6 after that date.

7 (4) EXCLUSION OF DISCOUNTS PROVIDED TO  
8 MAIL ORDER AND NURSING FACILITY PHARMACIES  
9 FROM THE DETERMINATION OF AVERAGE MANUFAC-  
10 Turer PRICE.—

11 (A) IN GENERAL.—Section  
12 1927(k)(1)(B)(ii)(IV) (42 U.S.C. 1396r-  
13 8(k)(1)(B)(ii)(IV)), as added by paragraph  
14 (1)(C), is amended to read as follows:

15 “(IV) Chargebacks, rebates pro-  
16 vided to a pharmacy (excluding a mail  
17 order pharmacy, a pharmacy at a  
18 nursing facility or home, and a phar-  
19 macy benefit manager), or any other  
20 direct or indirect discounts.”.

21 (B) EFFECTIVE DATE.—Paragraph (3)  
22 shall apply to the amendment made by subpara-  
23 graph (A).

1           (5) EXTENSION OF PRESCRIPTION DRUG DIS-  
2           COUNTS TO ENROLLEES OF MEDICAID MANAGED  
3           CARE ORGANIZATIONS.—

4                   (A) IN GENERAL.—Section 1903(m)(2)(A)  
5           (42 U.S.C. 1396b(m)(2)(A)) is amended—

6                           (i) in clause (xi), by striking “and” at  
7                   the end;

8                           (ii) in clause (xii), by striking the pe-  
9                   riod at the end and inserting “; and”; and

10                           (iii) by adding at the end the fol-  
11                   lowing:

12                           “(xiii) such contract provides that payment for  
13                   covered outpatient drugs dispensed to individuals eli-  
14                   gible for medical assistance who are enrolled with  
15                   the entity shall be subject to the same rebate agree-  
16                   ment entered into under section 1927 as the State  
17                   is subject to and that the State shall have the option  
18                   of collecting rebates for the dispensing of such drugs  
19                   by the entity directly from manufacturers or allow-  
20                   ing the entity to collect such rebates from manufac-  
21                   turers in exchange for a reduction in the prepaid  
22                   payments made to the entity for the enrollment of  
23                   such individuals.”.

24                           (B) CONFORMING AMENDMENT.—Section  
25           1927(j)(1) (42 U.S.C. 1396r-8(j)91)) is

1 amended by inserting “other than for purposes  
2 of collection of rebates for the dispensing of  
3 such drugs in accordance with the provisions of  
4 a contract under section 1903(m) that meets  
5 the requirements of paragraph (2)(A)(xiii) of  
6 that section” before the period.

7 (C) EFFECTIVE DATE.—The amendments  
8 made by this paragraph take effect on the date  
9 of enactment of this Act and apply to rebate  
10 agreements entered into or renewed under sec-  
11 tion 1927 of the Social Security Act (42 U.S.C.  
12 1396r–8) on or after such date.

13 (b) UPPER PAYMENT LIMIT FOR INGREDIENT COST  
14 OF COVERED OUTPATIENT DRUGS.—

15 (1) IN GENERAL.—Section 1927(e) (42 U.S.C.  
16 1396r–8(e)) is amended to read as follows:

17 “(e) PHARMACY REIMBURSEMENT LIMITS.—

18 “(1) UPPER PAYMENT LIMIT FOR INGREDIENT  
19 COST OF COVERED OUTPATIENT DRUGS.—No Fed-  
20 eral financial participation shall be available for pay-  
21 ment for the ingredient cost of a covered outpatient  
22 drug that exceeds the upper payment limit for that  
23 drug established under paragraph (2).

24 “(2) UPPER PAYMENT LIMIT.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraphs (B) and (C), the upper payment  
3           limit established under this paragraph for the  
4           ingredient cost of a—

5                   “(i) single source drug, is 105 percent  
6                   of the average manufacturer price for that  
7                   drug; and

8                   “(ii) multiple source drug, is 115 per-  
9                   cent of the weighted average manufacturer  
10                  price for that drug.

11           “(B) EXCEPTION FOR INITIAL SALES PERI-  
12           ODS.—

13                   “(i) IN GENERAL.—In the case of a  
14                   covered outpatient drug during an initial  
15                   sales period (not to exceed 2 calendar  
16                   quarters) in which data on sales for the  
17                   drug is not sufficiently available from the  
18                   manufacturer to compute the average man-  
19                   ufacturer price or the weighted average  
20                   manufacturer price, the Secretary shall es-  
21                   tablish the upper payment limit for the in-  
22                   gredient cost of such drug to apply only  
23                   during such period based on the following:

24                           “(I) In the case of a single  
25                           source drug, such upper payment

1 limit shall be the wholesale acquisition  
2 cost for the drug.

3 “(II) In the case of a first non-  
4 innovator multiple source drug, such  
5 upper payment limit shall be the aver-  
6 age manufacturer price for the single  
7 source drug that is rated as thera-  
8apeutically equivalent and bioequivalent  
9 to such drug, minus 10 percent.

10 “(III) In the case of a subse-  
11 quent noninnovator multiple source  
12 drug—

13 “(aa) if the Secretary has  
14 sufficient data to determine the  
15 weighted average manufacturer  
16 price for the drug, such upper  
17 payment limit shall be the  
18 weighted average manufacturer  
19 price determined for the thera-  
20apeutically equivalent and bio-  
21equivalent form of the drug; and

22 “(bb) if the Secretary does  
23 not have sufficient data to deter-  
24mine the weighted average manu-  
25facturer price for the drug, such

1 upper payment limit shall be the  
2 average manufacturer price for  
3 the single source drug that is  
4 rated as therapeutically equiva-  
5 lent and bioequivalent to the  
6 drug, minus 10 percent.

7 “(ii) DEFINITION OF WHOLESAL AC-  
8 QUISTION COST.—For purposes of clause  
9 (i), the term ‘wholesale acquisition cost’  
10 means, with respect to a drug or biological,  
11 the manufacturer’s list price for the drug  
12 or biological to wholesalers or direct pur-  
13 chasers in the United States, not including  
14 prompt pay or other discounts, rebates, or  
15 reductions in price, for the most recent  
16 month for which the information is avail-  
17 able, as reported in wholesale price guides  
18 or other publications of drug or biological  
19 pricing data.

20 “(C) EXCEPTION FOR CERTAIN INNOVATOR  
21 MULTIPLE SOURCE DRUGS.—In the case of an  
22 innovator multiple source drug that a pre-  
23 scribing health care provider determines is nec-  
24 essary for treatment of a condition and that a  
25 noninnovator multiple source drug would not be

1 as effective for the individual or would have ad-  
2 verse effects for the individual or both, and for  
3 which the provider obtains prior authorization  
4 in accordance with a program described in sub-  
5 section (d)(5), the upper payment limit for the  
6 innovator multiple source drug shall be 105  
7 percent of the average manufacturer price for  
8 such drug.

9 “(D) UPDATES; AVAILABILITY OF DATA.—

10 “(i) FREQUENCY OF DETERMINA-  
11 TION.—The Secretary shall update the  
12 upper payment limits applicable under this  
13 paragraph on a quarterly basis, taking into  
14 account the most recent data collected for  
15 purposes of determining such limits and  
16 the Food and Drug Administration’s most  
17 recent publication of ‘Approved Drug  
18 Products with Therapeutic Equivalence  
19 Evaluations’.

20 “(ii) COLLECTION OF DATA.—

21 “(I) IN GENERAL.—Beginning on  
22 January 1, 2006, the Secretary shall  
23 collect data with respect to the aver-  
24 age manufacturer prices and volume  
25 of sales of covered outpatient drugs

1 (or, in the case of covered outpatient  
2 drugs that are first marketed after  
3 such date, beginning with the first  
4 quarter during which the drugs are  
5 first marketed).

6 “(II) DATA REPORTED FOR PUR-  
7 POSES OF DETERMINING WEIGHTED  
8 AVERAGE MANUFACTURER PRICE.—  
9 Insofar as there is a lag in the report-  
10 ing of the information on rebates and  
11 chargebacks so that adequate data are  
12 not available on a timely basis to up-  
13 date the weighted average manufac-  
14 turer price for a multiple source drug,  
15 the manufacturer of such drug shall  
16 apply a methodology based on a 12-  
17 month rolling average for the manu-  
18 facturer to estimate costs attributable  
19 to rebates and charge backs for such  
20 drug. For years after 2006, the Sec-  
21 retary shall establish a uniform meth-  
22 odology to estimate and apply such  
23 costs.

24 “(iii) AVAILABILITY OF DATA TO  
25 STATES.—Notwithstanding subsection

1 (b)(3)(D), beginning with the first quarter  
2 of fiscal year 2006 for which data is avail-  
3 able, and for each fiscal year quarter  
4 thereafter, the Secretary shall make avail-  
5 able to States the most recently reported  
6 average manufacturer prices for single  
7 source drugs and weighted average manu-  
8 facturer prices for multiple source drugs.

9 “(E) AUTHORITY TO ENTER CON-  
10 TRACTS.—The Secretary may enter into con-  
11 tracts with appropriate entities to determine av-  
12 erage manufacturer prices, volume, and other  
13 data necessary to calculate the upper payment  
14 limit for a covered outpatient drug established  
15 under this subsection and to calculate that pay-  
16 ment limit.

17 “(3) STATE USE OF PRICE DATA.—

18 “(A) DISTRIBUTION OF DATA.—The Sec-  
19 retary shall devise and implement a means for  
20 electronic distribution of the most recently cal-  
21 culated weighted average manufacturer price  
22 and the average manufacturer price for all cov-  
23 ered outpatient drugs to each State agency des-  
24 ignated under section 1902(a)(5) with responsi-  
25 bility for the administration or supervision of

1 the administration of the State plan under this  
2 title.

3 “(B) AUTHORITY TO ESTABLISH PAYMENT  
4 RATES BASED ON DATA.—A State may use the  
5 price data received in accordance with subpara-  
6 graph (A) in establishing payment rates for the  
7 ingredient costs and dispensing fees for covered  
8 outpatient drugs dispensed to individuals eligi-  
9 ble for medical assistance under this title.

10 “(4) REASONABLE DISPENSING FEES RE-  
11 QUIRED.—

12 “(A) IN GENERAL.—A State which pro-  
13 vides medical assistance for covered outpatient  
14 drugs shall pay a dispensing fee for each cov-  
15 ered outpatient drug for which Federal finan-  
16 cial participation is available in accordance with  
17 this section in accordance with the following:

18 “(i) The dispensing fee for a noninno-  
19 vator multiple source drug shall be greater  
20 than the dispensing fee for an innovator  
21 multiple source drug that is rated as thera-  
22apeutically equivalent and bioequivalent to  
23 such drug.

24 “(ii) In establishing such dispensing  
25 fees, the State takes into consideration

1 such requirements as the Secretary shall,  
2 by regulation, establish, and which shall in-  
3 clude consideration of the following:

4 “(I) Any reasonable costs associ-  
5 ated with a pharmacist’s time in  
6 checking for information about an in-  
7 dividual’s coverage or performing  
8 quality assurance activities.

9 “(II) Costs associated with—

10 “(aa) the measurement or  
11 mixing of a covered outpatient  
12 drug;

13 “(bb) filling the container  
14 for the drug;

15 “(cc) physically providing  
16 the completed prescription to an  
17 individual enrolled in the pro-  
18 gram under this title;

19 “(dd) delivery;

20 “(ee) special packaging;

21 “(ff) overhead related to  
22 maintaining the facility and  
23 equipment necessary to operate  
24 the pharmacy, including the sala-

1           ries of pharmacists and other  
2           pharmacy workers;

3                   “(gg) geographic factors  
4           that impact operational costs;

5                   “(hh) patient counseling;  
6           and

7                   “(ii) the dispensing of drugs  
8           requiring specialty pharmacy care  
9           management services (as deter-  
10          mined by the Secretary in ac-  
11          cordance with subparagraph  
12          (B)).

13                   “(B) DETERMINATION OF DRUGS REQUIR-  
14          ING SPECIALTY PHARMACY CARE MANAGEMENT  
15          SERVICES.—

16                   “(i) IN GENERAL.—Not later than 15  
17          months after the date of enactment of the  
18          Deficit Reduction Omnibus Reconciliation  
19          Act of 2005, the Secretary shall establish  
20          a list of covered outpatient drugs which re-  
21          quire specialty pharmacy care management  
22          services that includes only those drugs for  
23          which the Secretary determines that access  
24          by individuals eligible for medical assist-  
25          ance under this title would be seriously im-

1 paired without the provision of specialty  
2 pharmacy care management services.

3 “(ii) SPECIALTY PHARMACY CARE  
4 MANAGEMENT SERVICES DEFINED.—For  
5 purposes of this paragraph, the term ‘spe-  
6 cialty pharmacy care management services’  
7 means services provided in connection with  
8 the dispensing or administration of a cov-  
9 ered outpatient drug which the Secretary  
10 determines requires—

11 “(I) significant caregiver and  
12 provider contact and education re-  
13 garding the relevant disease state,  
14 prevention, treatment, drug indica-  
15 tions, benefits, risks, complications,  
16 use, pharmacy counseling, and expla-  
17 nation of existing provider guidelines;

18 “(II) patient compliance services,  
19 including coordination of provider vis-  
20 its with drug delivery, compliance with  
21 a drug dosing regimen, mailing or  
22 telephone call reminders, compiling  
23 compliance data, and assisting pro-  
24 viders in developing compliance pro-  
25 grams; or

1                   “(III) tracking services, including  
 2                   developing referral processes with pro-  
 3                   viders, screening referrals, and track-  
 4                   ing patient weight for dosing require-  
 5                   ments.

6                   “(iii) QUARTERLY UPDATES.—The  
 7                   Secretary shall update the list of covered  
 8                   outpatient drugs requiring specialty phar-  
 9                   macy management services on a quarterly  
 10                  basis.

11                  “(5) RULES APPLICABLE TO CRITICAL ACCESS  
 12                  RETAIL PHARMACIES.—

13                  “(A) REIMBURSEMENT LIMITS.—Notwith-  
 14                  standing paragraph (2)(A), in the case of a  
 15                  critical access retail pharmacy (as defined in  
 16                  subparagraph (C)), the upper payment limit—

17                         “(i) for the ingredient cost of a single  
 18                         source drug, is the lesser of—

19                                 “(I) 108 percent of the average  
 20                                 manufacturer price for the drug; or

21                                 “(II) the wholesale acquisition  
 22                                 cost for the drug; and

23                         “(ii) for the ingredient cost of a mul-  
 24                         tiple source drug, is the lesser of—

1                   “(II) 140 percent of the weighted  
2                   average manufacturer price for the  
3                   drug; or

4                   “(II) the wholesale acquisition  
5                   cost for the drug.

6                   “(B) APPLICATION OF OTHER PROVI-  
7                   SIONS.—The preceding provisions of this sub-  
8                   section shall apply with respect to reimburse-  
9                   ment to a critical access retail pharmacy in the  
10                  same manner as such provisions apply to reim-  
11                  bursement to other retail pharmacies except  
12                  that, in establishing the dispensing fee for a  
13                  critical access pharmacy the Secretary, in addi-  
14                  tion to the factors required under paragraph  
15                  (4), shall include consideration of the costs as-  
16                  sociated with operating a critical access retail  
17                  pharmacy.

18                  “(C) CRITICAL ACCESS RETAIL PHARMACY  
19                  DEFINED.—For purposes of subparagraph (A),  
20                  the term ‘critical access retail pharmacy’ means  
21                  an retail pharmacy that is not within a 20-mile  
22                  radius of another retail pharmacy.”.

23                  (2) INCREASE IN BASIC REBATE FOR SINGLE  
24                  SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE  
25                  DRUGS.—Section 1927(c)(1)(B)(i)(VI) (42 U.S.C.

1 1396r-8(c)(1)(B)(i)(VI), as added by section  
2 6002(a)(3), is amended by striking “17” and insert-  
3 ing “18.1”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Section 1927(b)(3)(D)(i) (42 U.S.C.  
6 1396r-8(b)(3)(D)(i)) is amended by inserting  
7 “(including with respect to the determination of  
8 weighted average manufacturer prices under  
9 subsection (e)(2) and the distribution of weight-  
10 ed average manufacturer prices and average  
11 manufacturer prices for covered outpatient  
12 drugs to States under subsection (e)(3))” after  
13 “this section”.

14 (B) Section 1903(i)(10) (42 U.S.C.  
15 1396b(i)(10)) is amended—

16 (i) in subparagraph (A), by striking  
17 “and” at the end;

18 (ii) in subparagraph (B), by striking  
19 “or” at the end and inserting “and”; and

20 (iii) by adding at the end the fol-  
21 lowing:

22 “(C) with respect to any amount expended for  
23 the ingredient cost of a covered outpatient drug that  
24 exceeds the upper payment limit for that drug estab-  
25 lished under section 1927(e); or”.

1           (4) EFFECTIVE DATE.—The amendments made  
2 by this subsection take effect with respect to a State  
3 on the later of—

4           (A) January 1, 2007; or

5           (B) the date that is 6 months after the  
6 close of the first regular session of the State  
7 legislature that begins after the date of enact-  
8 ment of this Act.

9           (c) INTERIM UPPER PAYMENT LIMIT.—

10           (1) IN GENERAL.—With respect to a State pro-  
11 gram under title XIX of the Social Security Act,  
12 during the period that begins on January 1, 2006,  
13 and ends on the effective date applicable to such  
14 State under subsection (b)(3), the Secretary shall—

15           (A) apply the Federal upper payment limit  
16 established under section 447.332(b) of title 42,  
17 Code of Federal Regulations to the State by  
18 substituting “125 percent” for “150 percent”;  
19 and

20           (B) in the case of covered outpatient drugs  
21 under title XIX of such Act that are marketed  
22 as of July 1, 2005, and are subject to Federal  
23 upper payment limits that apply under section  
24 447.332 of title 42, Code of Federal Regula-  
25 tions, use average wholesale prices, direct

1 prices, and wholesale acquisition costs for such  
 2 drugs that do not exceed such prices and costs  
 3 as of such date to determine the Federal upper  
 4 payment limits that apply under section  
 5 447.332 of title 42, Code of Federal Regula-  
 6 tions to such drugs during such period.

7 (2) APPLICATION TO NEW DRUGS.—Paragraph  
 8 (1)(A) shall apply to a covered outpatient drug  
 9 under title XIX of the Social Security Act that is  
 10 first marketed after July 1, 2005, but before Janu-  
 11 ary 1, 2007, and is subject to the Federal upper  
 12 payment limit established under section 447.332(b)  
 13 of title 42, Code of Federal Regulations.

14 **SEC. 6002. INCREASE IN REBATES FOR COVERED OUT-**  
 15 **PATIENT DRUGS.**

16 (a) INCREASE IN BASIC REBATE FOR SINGLE  
 17 SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE  
 18 DRUGS.—Section 1927(c)(1)(B)(i) (42 U.S.C. 1396r-  
 19 8(c)(1)(B)(i)) is amended—

20 (1) in subclause (IV), by striking “and” after  
 21 the semicolon;

22 (2) in subclause (V)—

23 (A) by inserting “and before January 1,  
 24 2006,” after “1995,”; and

1 (B) by striking the period and inserting “;  
2 and”; and

3 (3) by adding at the end the following:

4 “(VI) after December 31, 2005,  
5 is 17 percent.”.

6 (b) INCREASE IN REBATE FOR OTHER DRUGS.—Sec-  
7 tion 1927(c)(3)(B) (42 U.S.C. 1396r-8(c)(3)(B)) is  
8 amended—

9 (1) in clause (i), by striking “and” at the end;

10 (2) in clause (ii)—

11 (A) by inserting “and before January 1,  
12 2006,” after “December 31, 1993,”; and

13 (B) by striking the period at the end and  
14 inserting “; and”; and

15 (3) by adding at the end the following:

16 “(iii) after December 31, 2005, is 17  
17 percent.”.

18 **SEC. 6003. IMPROVED REGULATION OF AUTHORIZED GE-**  
19 **NERIC DRUGS.**

20 (a) INCLUSION WITH OTHER REPORTED AVERAGE  
21 MANUFACTURER AND BEST PRICES.—Section  
22 1927(b)(3)(A) (42 U.S.C. 1396r-8(b)(3)(A)) is  
23 amended—

24 (1) by striking clause (i) and inserting the fol-  
25 lowing:

1           “(i) not later than 30 days after the  
2 last day of each rebate period under the  
3 agreement—

4           “(I) on the average manufacturer  
5 price (as defined in subsection (k)(1))  
6 for each covered outpatient drug for  
7 the rebate period under the agreement  
8 (including for each such drug that is  
9 an authorized generic drug or is any  
10 other drug sold under a new drug ap-  
11 plication approved under section  
12 505(c) of the Federal Food, Drug,  
13 and Cosmetic Act); and

14           “(II) for each single source drug,  
15 innovator multiple source drug, au-  
16 thorized generic drug, and any other  
17 drug sold under a new drug applica-  
18 tion approved under section 505(c) of  
19 the Federal Food, Drug, and Cos-  
20 metic Act, on the manufacturer’s best  
21 price (as defined in subsection  
22 (c)(1)(C)) for such drug for the rebate  
23 period under the agreement;”;

24           (2) in clause (ii), by inserting “(including for  
25 such drugs that are authorized generic drugs or are

1 any other drugs sold under a new drug application  
2 approved under section 505(c) of the Federal Food,  
3 Drug, and Cosmetic Act)” after “drugs”.

4 (b) CONFORMING AMENDMENTS.—Section 1927 of  
5 such Act (42 U.S.C. 1396r–8) is amended—

6 (1) in subsection (c)(1)(C)—

7 (A) in clause (i), in the matter preceding  
8 subclause (I), by striking “or innovator multiple  
9 source drug of a manufacturer” and inserting  
10 “, innovator multiple source drug, or authorized  
11 generic drug of a manufacturer, or any other  
12 drug of a manufacturer that is sold under a  
13 new drug application approved under section  
14 505(c) of the Federal Food, Drug, and Cos-  
15 metic Act”; and

16 (B) in clause (ii)—

17 (i) in subclause (II), by striking  
18 “and” at the end;

19 (ii) in subclause (III), by striking the  
20 period at the end and inserting “; and”;  
21 and

22 (iii) by adding at the end the fol-  
23 lowing:

24 “(IV) in the case of a manufac-  
25 turer that approves, allows, or other-

1 wise permits an authorized generic  
2 drug or any other drug of the manu-  
3 facturer to be sold under a new drug  
4 application approved under section  
5 505(c) of the Federal Food, Drug,  
6 and Cosmetic Act, shall be inclusive of  
7 the lowest price for such authorized  
8 generic or other drug available from  
9 the manufacturer during the rebate  
10 period to any wholesaler, retailer, pro-  
11 vider, health maintenance organiza-  
12 tion, nonprofit entity, or governmental  
13 entity within the United States, ex-  
14 cluding those prices described in sub-  
15 clauses (I) through (IV) of clause  
16 (i).”;

17 (2) in subsection (k)—

18 (A) in paragraph (1), as amended by sec-  
19 tion 6001(a)(1)(B), by adding at the end the  
20 following:

21 “(F) INCLUSION OF AUTHORIZED GENERIC  
22 DRUGS.—In the case of a manufacturer that  
23 approves, allows, or otherwise permits an au-  
24 thorized generic drug or any other drug of the  
25 manufacturer to be sold under a new drug ap-

1           plication approved under section 505(c) of the  
2           Federal Food, Drug, and Cosmetic Act, such  
3           term shall be inclusive of the average price paid  
4           for such authorized generic or other drug.”; and

5                   (B) by adding at the end the following:

6                   “(10) AUTHORIZED GENERIC DRUG.—The term  
7           ‘authorized generic drug’ means a listed drug (as  
8           that term is used in section 505(j) of the Federal  
9           Food, Drug, and Cosmetic Act) that—

10                   “(A) has been approved under section  
11           505(c) of such Act; and

12                   “(B) is marketed, sold, or distributed di-  
13           rectly or indirectly to the retail class of trade  
14           under a different labeling, packaging (other  
15           than repackaging as the listed drug in blister  
16           packs, unit doses, or similar packaging for use  
17           in institutions), product code, labeler code,  
18           trade name, or trade mark than the listed  
19           drug.”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21           this section take effect on January 1, 2006.

1 **SEC. 6004. COLLECTION OF REBATES FOR CERTAIN PHYSI-**  
2 **CIAN ADMINISTERED DRUGS.**

3 (a) IN GENERAL.—Section 1927(a) (42 U.S.C.  
4 1396r–8(a)) is amended by adding at the end the fol-  
5 lowing:

6 “(7) REQUIREMENT FOR SUBMISSION OF UTILI-  
7 ZATION DATA FOR CERTAIN PHYSICIAN-ADMINIS-  
8 TERED DRUGS.—In order for payment to be avail-  
9 able under section 1903(a) for a covered outpatient  
10 drug that is physician administered (as determined  
11 by the Secretary), and that is administered on or  
12 after January 1, 2006, the State shall provide for  
13 the submission of such utilization data and coding  
14 (including both J-codes and National Drug Code  
15 numbers) for each such drug as the Secretary may  
16 specify as necessary in order to secure rebates for  
17 payments made under this title.”.

18 (b) LIMITATION ON PAYMENT.—Section 1903(i)(10)  
19 (42 U.S.C. 1396b(i)(10)), as amended by section  
20 6001(b)(2)(B), is amended—

21 (1) in subparagraph (B), by striking “and” at  
22 the end;

23 (2) in subparagraph (C), by striking “; or” at  
24 the end and inserting “, and”; and

25 (3) by adding at the end the following:



1 State may determine the period of ineligibility applicable  
2 to such individual under this paragraph by—

3 “(i) treating the total, cumulative uncompen-  
4 sated value of all assets transferred by the individual  
5 (or individual’s spouse) during all months on or  
6 after the look-back date specified in subparagraph  
7 (B) as 1 transfer for purposes of clause (i) or (ii)  
8 (as the case may be) of subparagraph (E); and

9 “(ii) beginning such period on the earliest date  
10 which would apply under subparagraph (D) to any  
11 of such transfers.”.

12 (c) INCLUSION OF TRANSFER OF CERTAIN NOTES  
13 AND LOANS ASSETS.—Section 1917(c)(1) (42 U.S.C.  
14 1396p(c)(1)), as amended by subsection (b), is amended  
15 by adding at the end the following:

16 “(G) For purposes of this paragraph with respect to  
17 a transfer of assets, the term ‘assets’ includes funds used  
18 to purchase a promissory note, loan, or mortgage unless  
19 such note, loan, or mortgage—

20 “(i) has a repayment term that is actuarially  
21 sound (as determined in accordance with actuarial  
22 publications of the Office of the Chief Actuary of the  
23 Social Security Administration);

1           “(ii) provides for payments to be made in equal  
2           amounts during the term of the loan, with no defer-  
3           ral and no balloon payments made; and

4           “(iii) prohibits the cancellation of the balance  
5           upon the death of the lender.

6 In the case of a promissory note, loan, or mortgage that  
7 does not satisfy the requirements of clauses (i) through  
8 (iii), the value of such note, loan, or mortgage shall be  
9 the outstanding balance due as of the date of the individ-  
10 ual’s application for medical assistance for services de-  
11 scribed in subparagraph (C).”.

12           (d) TREATMENT OF ANNUITIES.—

13           (1) INCLUSION OF TRANSFERS TO PURCHASE  
14           BALLOON ANNUITIES.—Section 1917(c)(1) (42  
15           U.S.C. 1396p(c)(1)), as amended by subsection (c),  
16           is amended by adding at the end the following:

17           “(H) For purposes of this paragraph with respect to  
18 a transfer of assets, the term ‘assets’ includes an annuity  
19 purchased by or on behalf of an annuitant who has applied  
20 for medical assistance with respect to nursing facility serv-  
21 ices or other long-term care services under this title  
22 unless—

23           “(i) the annuity is—

1           “(I) an annuity described in subsection (b)  
2           or (q) of section 408 of the Internal Revenue  
3           Code of 1986; or

4           “(II) purchased with proceeds from—

5                 “(aa) an account or trust described in  
6                 subsection (a), (c), (p) of section 408 of  
7                 such Code;

8                 “(bb) a simplified employee pension  
9                 (within the meaning of section 408(k) of  
10                such Code); or

11               “(cc) a Roth IRA described in section  
12                408A of such Code; or

13           “(ii) the annuity—

14                 “(I) is irrevocable and nonassignable;

15                 “(II) is actuarially sound (as determined in  
16                 accordance with actuarial publications of the  
17                 Office of the Chief Actuary of the Social Secu-  
18                 rity Administration); and

19                 “(III) provides for payments in equal  
20                 amounts during the term of the annuity, with  
21                 no deferral and no balloon payments made.”.

22           (2) REQUIREMENT FOR STATE TO BE NAMED  
23           AS A REMAINDER BENEFICIARY.—Section 1917(c)(1)  
24           (42 U.S.C. 1396p(c)(1)), as amended by paragraph  
25           (1), is amended by adding at the end the following:

1       “(I) For purposes of this paragraph, the purchase of  
 2 an annuity shall be treated as the disposal of an asset  
 3 for less than fair market value unless the State is named  
 4 as the remainder beneficiary in the first position for at  
 5 least the total amount of medical assistance paid on behalf  
 6 of the annuitant under this title or is named as such a  
 7 beneficiary in the second position after the community  
 8 spouse and such spouse does not dispose of any such re-  
 9 mainder for less than fair market value.”.

10           (3) INCLUSION OF CERTAIN ANNUITIES IN AN  
 11 ESTATE.—Section 1917(b)(4) (42 U.S.C.  
 12 1396p(b)(4)) is amended—

13           (A) in subparagraph (A), by striking  
 14 “and” at the end;

15           (B) in subparagraph (B), by striking the  
 16 period at the end and inserting “; and”; and

17           (C) by adding at the end the following:

18           “(C) shall include an annuity unless the annu-  
 19 ity was purchased from a financial institution or  
 20 other business that sells annuities in the State as  
 21 part of its regular business.”.

22           (e) INCLUSION OF TRANSFERS TO PURCHASE LIFE  
 23 ESTATES.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)),  
 24 as amended by subsection (d)(2), is amended by adding  
 25 at the end the following:

1       “(J) For purposes of this paragraph with respect to  
2 a transfer of assets, the term ‘assets’ includes the pur-  
3 chase of a life estate interest in another individual’s home  
4 unless the purchaser resides in the home for a period of  
5 at least 1 year after the date of the purchase.

6       (f) PROTECTION AGAINST UNDUE HARDSHIP.—Sec-  
7 tion 1917(c) (42 U.S.C. 1396p(c)) is amended by adding  
8 at the end the following:

9       “(6) For purposes of paragraph (2)(D) and sub-  
10 section (d)(5), the procedures established by the State in  
11 accordance with standards specified by the Secretary shall  
12 provide for—

13           “(A) notice, before application of the provisions  
14 of paragraph (1) or subsection (d), to an individual  
15 who is an applicant for medical assistance under this  
16 title who would be subject to such a penalty under  
17 such provisions that an undue hardship exception ex-  
18 ists;

19           “(B) a timely process before the imposition of  
20 a penalty for determining whether an undue hard-  
21 ship waiver will be granted for the individual;

22           “(C) a process under which an adverse deter-  
23 mination can be appealed; and

24           “(D) application of criteria that specifies that  
25 an undue hardship exists when application of the

1 provisions of paragraph (1) or subsection (d) would  
2 deprive the individual of medical care such that the  
3 individual's health or life would be endangered or  
4 when the application of such provisions would de-  
5 prive the individual of food, clothing, shelter, or  
6 other necessities of life.”.

7 (g) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graphs (2) and (3), the amendments made by this  
10 section shall apply to payments under title XIX of  
11 the Social Security Act (42 U.S.C. 1396 et seq.) for  
12 calendar quarters beginning on or after the date of  
13 enactment of this Act, without regard to whether or  
14 not final regulations to carry out such amendments  
15 have been promulgated by such date.

16 (2) EXCEPTIONS.—The amendments made by  
17 this section shall not apply—

18 (A) to medical assistance provided for serv-  
19 ices furnished before the date of enactment;

20 (B) with respect to assets disposed of on  
21 or before the date of enactment of this Act; or

22 (C) with respect to trusts established on or  
23 before the date of enactment of this Act.

24 (3) EXTENSION OF EFFECTIVE DATE FOR  
25 STATE LAW AMENDMENT.—In the case of a State

1 plan under title XIX of the Social Security Act (42  
2 U.S.C. 1396 et seq.) which the Secretary of Health  
3 and Human Services determines requires State legis-  
4 lation in order for the plan to meet the additional  
5 requirements imposed by the amendments made by  
6 a provision of this section, the State plan shall not  
7 be regarded as failing to comply with the require-  
8 ments of such title solely on the basis of its failure  
9 to meet these additional requirements before the  
10 first day of the first calendar quarter beginning  
11 after the close of the first regular session of the  
12 State legislature that begins after the date of the en-  
13 actment of this Act. For purposes of the previous  
14 sentence, in the case of a State that has a 2-year  
15 legislative session, each year of the session is consid-  
16 ered to be a separate regular session of the State  
17 legislature.

18 **SEC. 6012. STATE LONG-TERM CARE PARTNERSHIPS.**

19 (a) EXPANSION OF STATE LONG-TERM CARE PART-  
20 NERSHIPS.—

21 (1) IN GENERAL.—Section 1917(b)(1)(C)(ii)  
22 (42 U.S.C. 1396p(b)(1)(C)(ii)) is amended to read  
23 as follows:

24 “(ii) Clause (i) shall not apply in the case of an  
25 individual who received medical assistance under—

1           “(I) a Qualified State Long-Term Care In-  
2           surance Partnership (as defined in paragraph  
3           (5)); or

4           “(II) under a State plan of a State  
5           which—

6                   “(aa) had a State plan amendment  
7                   approved as of May 14, 1993, which pro-  
8                   vided for the disregard of any assets or re-  
9                   sources to the extent that payments are  
10                  made under a long-term care insurance  
11                  policy or because an individual has received  
12                  (or is entitled to receive) benefits under a  
13                  long-term care insurance policy; and

14                   “(bb) has a State plan amendment  
15                   which satisfies the requirements of sub-  
16                   paragraphs (B) through (G) of paragraph  
17                   (5) in the case of any long-term care insur-  
18                   ance policy sold under such plan amend-  
19                   ment on or after the date that is 2 years  
20                   after the date of enactment of such para-  
21                   graph.

22           For purposes of this clause and paragraphs (5) and  
23           (6), the term ‘long-term care insurance policy’ in-  
24           cludes a certificate issued under a group insurance  
25           contract.”.

1           (2) SATISFACTION OF MINIMUM FEDERAL  
2 STANDARDS, TAX QUALIFICATIONS, INFLATION PRO-  
3 TECTION, AND OTHER REQUIREMENTS FOR LONG-  
4 TERM CARE INSURANCE PARTNERSHIPS.—Section  
5 1917(b) (42 U.S.C. 1396p(b)) is amended by insert-  
6 ing at the end the following:

7           “(5) The term ‘Qualified State Long-Term  
8 Care Insurance Partnership’ means a program of-  
9 fered in a State with an approved State plan amend-  
10 ment that provides for the following:

11           “(A) Subject to the limit specified in sub-  
12 paragraph (D), the disregard of any assets or  
13 resources in an amount equal to the amount of  
14 payments made to, or on behalf of, an indi-  
15 vidual who is a beneficiary under any long-term  
16 care insurance policy sold under such plan  
17 amendment.

18           “(B) A requirement that the State will  
19 treat benefits paid under any long-term care in-  
20 surance policy sold under a plan amendment of  
21 another State that maintains a Qualified Long-  
22 Term Care Insurance Partnership or is de-  
23 scribed in subsection (b)(1)(C)(ii)(II) the same  
24 as the State treats benefits paid under such a  
25 policy sold under the State’s plan amendment.

1           “(C) A requirement that any long-term  
2 care insurance policy sold under such plan  
3 amendment—

4           “(i) be a qualified long-term care in-  
5 surance contract within the meaning of  
6 section 7702B(b) of the Internal Revenue  
7 Code of 1986; and

8           “(ii) meet the requirements described  
9 in paragraph (6).

10          “(D) A requirement that any such policy  
11 sold under the State plan amendment shall pro-  
12 vide for—

13          “(i) compound annual inflation pro-  
14 tection of at least 5 percent; and

15          “(ii) asset protection that does not ex-  
16 ceed \$250,000.

17          The dollar amount specified in the preceding  
18 sentence shall be increased, beginning with  
19 2007, from year to year based on the percent-  
20 age increase in the medical care expenditure  
21 category of the Consumer Price Index for All  
22 Urban Consumers (United States city average),  
23 published by the Bureau of Labor Statistics,  
24 rounded to the nearest \$100.

1           “(E) A requirement that an insurer may  
2 rescind a long-term care insurance policy sold  
3 under such State plan amendment that has  
4 been in effect for at least 2 years or deny an  
5 otherwise valid long-term care insurance claim  
6 under such a policy only upon a showing of mis-  
7 representation that is material to the accept-  
8 ance of coverage, pertains to the claim made,  
9 and could not have been known by the insurer  
10 at the time the policy was sold.

11           “(F) A requirement that any individual  
12 who sells such a policy receive training, and  
13 demonstrate evidence of an understanding of,  
14 the policy and how the policy relates to other  
15 public and private coverage of long-term care.

16           “(G) A requirement that the issuer of any  
17 such policy report—

18                   “(i) to the Secretary, such informa-  
19 tion or data as the Secretary may require;  
20 and

21                   “(ii) to the State, the information or  
22 data reported to the Secretary (if any), the  
23 information or data required under the  
24 minimum reporting requirements developed  
25 under section 6012(b)(2)(B) of the Deficit

1           Reduction Omnibus Reconciliation Act of  
2           2005, and such additional information or  
3           data as the State may require.

4           For purposes of applying this paragraph, if a long-  
5           term care insurance policy is exchanged for another  
6           such policy, the date coverage became effective  
7           under the first policy shall determine when coverage  
8           first becomes effective.

9           “(6)(A) For purposes of subparagraph (C)(ii)  
10          of paragraph (5), the requirements of this paragraph  
11          are met if a long-term care insurance policy sold  
12          under a plan amendment described in that para-  
13          graph meets—

14                 “(i) MODEL REGULATION.—The following  
15                 requirements of the model regulation:

16                         “(I) Section 6A (relating to guaran-  
17                         teed renewal or noncancellability), other  
18                         than paragraph (5) thereof, and the re-  
19                         quirements of section 6B of the model Act  
20                         relating to such section 6A.

21                         “(II) Section 6B (relating to prohibi-  
22                         tions on limitations and exclusions) other  
23                         than paragraph (7) thereof.

24                         “(III) Section 6C (relating to exten-  
25                         sion of benefits).

1           “(IV) Section 6D (relating to continu-  
2           ation or conversion of coverage).

3           “(V) Section 6E (relating to dis-  
4           continuance and replacement of policies).

5           “(VI) Section 7 (relating to uninten-  
6           tional lapse).

7           “(VII) Section 8 (relating to disclo-  
8           sure), other than sections 8F, 8G, 8H, and  
9           8I thereof.

10           “(VIII) Section 9 (relating to required  
11           disclosure of rating practices to consumer).

12           “(IX) Section 11 (relating to prohibi-  
13           tions against post-claims underwriting).

14           “(X) Section 12 (relating to minimum  
15           standards).

16           “(XI) Section 14 (relating to applica-  
17           tion forms and replacement coverage).

18           “(XII) Section 15 (relating to report-  
19           ing requirements).

20           “(XIII) Section 22 (relating to filing  
21           requirements for marketing).

22           “(XIV) Section 23 (relating to stand-  
23           ards for marketing), including inaccurate  
24           completion of medical histories, other than

1 paragraphs (1), (6), and (9) of section  
2 23C.

3 “(XV) Section 25 (relating to prohibi-  
4 tion against preexisting conditions and  
5 probationary periods in replacement poli-  
6 cies or certificates).

7 “(XVI) The provisions of section 26  
8 relating to contingent nonforfeiture bene-  
9 fits, if the policyholder declines the offer of  
10 a nonforfeiture provision described in para-  
11 graph (4).

12 “(XVII) Section 29 (relating to stand-  
13 ard format outline of coverage).

14 “(XVIII) Section 30 (relating to re-  
15 quirement to deliver shopper’s guide).

16 “(ii) MODEL ACT.—The following require-  
17 ments of the model Act:

18 “(I) Section 6C (relating to pre-  
19 existing conditions).

20 “(II) Section 6D (relating to prior  
21 hospitalization).

22 “(III) The provisions of section 8 re-  
23 lating to contingent nonforfeiture benefits.

24 “(IV) Section 6F (relating to right to  
25 return).

1           “(V) Section 6G (relating to outline of  
2 coverage).

3           “(VI) Section 6H (relating to require-  
4 ments for certificates under group plans).

5           “(VII) Section 6J (relating to policy  
6 summary).

7           “(VIII) Section 6K (relating to  
8 monthly reports on accelerated death bene-  
9 fits).

10           “(B) DEFINITIONS.—For purposes of this  
11 paragraph—

12           “(i) MODEL PROVISIONS.—The terms  
13 ‘model regulation’ and ‘model Act’ mean the  
14 long-term care insurance model regulation, and  
15 the long-term care insurance model Act, respec-  
16 tively, promulgated by the National Association  
17 of Insurance Commissioners (as adopted as of  
18 October 2000).

19           “(ii) COORDINATION.—Any provision of  
20 the model regulation or model Act listed under  
21 clause (i) or (ii) of subparagraph (A) shall be  
22 treated as including any other provision of such  
23 regulation or Act necessary to implement the  
24 provision.

1           “(iii) DETERMINATION.—For purposes of  
2           this paragraph, the determination of whether  
3           any requirement of a model regulation or the  
4           model Act has been met shall be made by the  
5           Secretary.”.

6           (3) EFFECTIVE DATE.—The amendments made  
7           by this subsection take effect on October 1, 2007,  
8           and apply to long-term care insurance policies sold  
9           on or after that date.

10          (b) DEVELOPMENT OF UNIFORM STANDARDS AND  
11          RECOMMENDATIONS.—

12           (1) IN GENERAL.—Not later than 1 year after  
13           the date of enactment of this Act, the Secretary, in  
14           consultation with the National Association of Insur-  
15           ance Commissioners, issuers of long-term care insur-  
16           ance policies, States with experience with long-term  
17           care insurance partnership plans, other States, and  
18           representatives of consumers of long-term care in-  
19           surance policies shall develop the uniform standards  
20           described in paragraph (2) and submit recommenda-  
21           tions to Congress with respect to the issues identi-  
22           fied in paragraph (3).

23           (2) UNIFORM STANDARDS.—The uniform  
24           standards described in this paragraph are the fol-  
25           lowing:

1           (A) RECIPROCITY.—Standards for ensur-  
2           ing that long-term care insurance policies  
3           issued under a State long-term care insurance  
4           partnership under section 1917(b)(1)(C)(ii) of  
5           the Social Security Act (42 U.S.C.  
6           1396p(b)(1)(C)(ii)) (as amended by subsection  
7           (a)) are portable to other States with such a  
8           partnership.

9           (B) MINIMUM REPORTING REQUIRE-  
10           MENTS.—Standards for minimum reporting re-  
11           quirements for issuers of long-term care insur-  
12           ance policies under such State long-term care  
13           insurance partnerships that shall specify the  
14           data and information that each such issuer  
15           shall report to the State with which it has such  
16           a partnership. The requirements developed in  
17           accordance with this subparagraph shall specify  
18           the type and format of the data and informa-  
19           tion to be reported and the frequency with  
20           which such reports are to be made.

21           (C) SUITABILITY.—Suitability standards  
22           for determining whether a long-term care insur-  
23           ance policy is appropriate for the needs of an  
24           applicant, based on guidance of the National

1 Association of Insurance Commissioners regard-  
2 ing suitability.

3 (3) RECOMMENDATIONS.—The recommenda-  
4 tions described in this paragraph are the following:

5 (A) INCONTESTABILITY.—Recommendations  
6 regarding whether the requirements relating  
7 to incontestability for long-term care insurance  
8 policies sold under a State long-term care  
9 insurance partnership program under section  
10 1917(b)(1)(C)(ii) of the Social Security Act  
11 should be modified based on guidance of the  
12 National Association of Insurance Commis-  
13 sioners regarding incontestability.

14 (B) NONFORFEITURE.—Recommendations  
15 regarding whether requirements relating to non-  
16 forfeiture for issuers of long-term care insurance  
17 policies under a State long-term care in-  
18 surance partnership program under section  
19 1917(b)(1)(C)(ii) of such Act should be modi-  
20 fied to reflect changes in an insured's financial  
21 circumstances.

22 (C) INDEPENDENT CERTIFICATION FOR  
23 BENEFITS ASSESSMENT.—Recommendations re-  
24 garding whether uniform standards for requir-  
25 ing benefits assessment evaluations to be con-

1           ducted by independent entities should be estab-  
 2           lished for issuers of long-term care insurance  
 3           policies under such a State partnership pro-  
 4           gram and, if so, what such standards should be.

5           (D)     RATING     REQUIREMENTS.—Rec-  
 6           ommendations regarding whether uniform  
 7           standards for the establishment of, and annual  
 8           increases in, premiums for long-term care in-  
 9           surance policies sold under such a State part-  
 10          nership program should be established and, if  
 11          so, what such standards should be.

12          (E)     DISPUTE     RESOLUTION.—Rec-  
 13          ommendations regarding whether uniform  
 14          standards are needed to ensure fair adjudica-  
 15          tion of coverage disputes under long-term care  
 16          insurance policies sold under such a State part-  
 17          nership program and the delivery of the benefits  
 18          promised under such policies.

19          (4) STATE REPORTING REQUIREMENTS.—Noth-  
 20          ing in paragraph (2)(B) shall be construed as pro-  
 21          hibiting a State from requiring an issuer of a long-  
 22          term care insurance policy sold in the State (regard-  
 23          less of whether the policy is issued under a State  
 24          long-term care insurance partnership under section  
 25          1917(b)(1)(C)(ii) of the Social Security Act) to re-

1       quire the issuer to report information or data to the  
 2       State that is in addition to the information or data  
 3       required under the minimum reporting requirements  
 4       developed under that paragraph.

5       (c) ANNUAL REPORTS TO CONGRESS.—The Sec-  
 6       retary of Health and Human Services shall annually re-  
 7       port to Congress on the long-term care insurance partner-  
 8       ships established in accordance with section  
 9       1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C.  
 10      1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)).  
 11      Such reports shall include analyses of the extent to which  
 12      such partnerships expand or limit access of individuals to  
 13      long-term care and the impact of such partnerships on  
 14      Federal and State expenditures under the Medicare and  
 15      Medicaid programs.

16           **CHAPTER 3—ELIMINATING FRAUD,**  
 17           **WASTE, AND ABUSE IN MEDICAID**

18      **SEC. 6021. ENHANCING THIRD PARTY RECOVERY.**

19      (a) CLARIFICATION OF RIGHT OF RECOVERY  
 20      AGAINST ANY THIRD PARTY LEGALLY RESPONSIBLE FOR  
 21      PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR  
 22      SERVICE.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25))  
 23      is amended—

24           (1) in subparagraph (A), in the matter pre-  
 25      ceding clause (i)—

1 (A) by inserting “, including self-insured  
2 plans” after “health insurers”; and

3 (B) by striking “and health maintenance  
4 organizations” and inserting “health mainte-  
5 nance organizations, pharmacy benefit man-  
6 agers, or other parties that are, by statute, con-  
7 tract, or agreement, legally responsible for pay-  
8 ment of a claim for a health care item or serv-  
9 ice”; and

10 (2) in subparagraph (G)—

11 (A) by inserting “a self-insured plan,”  
12 after “1974,”; and

13 (B) by striking “and a health maintenance  
14 organization” and inserting “a health mainte-  
15 nance organization, a pharmacy benefit man-  
16 ager, or other party that is, by statute, con-  
17 tract, or agreement, legally responsible for pay-  
18 ment of a claim for a health care item or serv-  
19 ice”.

20 (b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE  
21 THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS  
22 DATA.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is  
23 amended—

24 (1) in subparagraph (G), by striking “and” at  
25 the end;

1           (2) in subparagraph (H), by adding “and” after  
2 the semicolon at the end; and

3           (3) by inserting after subparagraph (H), the  
4 following:

5           “(I) that the State shall provide assur-  
6 ances satisfactory to the Secretary that the  
7 State has in effect laws requiring health insur-  
8 ers, including self-insured plans, group health  
9 plans (as defined in section 607(1) of the Em-  
10 ployee Retirement Income Security Act of  
11 1974), service benefit plans, health maintenance  
12 organizations, pharmacy benefit managers, or  
13 other parties that are, by statute, contract, or  
14 agreement, legally responsible for payment of a  
15 claim for a health care item or service, as a  
16 condition of doing business in the State, to—

17           “(i) provide eligibility and claims pay-  
18 ment data with respect to an individual  
19 who is eligible for, or is provided, medical  
20 assistance under the State plan, upon the  
21 request of the State;

22           “(ii) accept the subrogation of the  
23 State to any right of an individual or other  
24 entity to payment from the party for an

1 item or service for which payment has been  
2 made under the State plan;

3 “(iii) respond to any inquiry by the  
4 State regarding a claim for payment for  
5 any health care item or service submitted  
6 not later than 3 years after the date of the  
7 provision of such health care item or serv-  
8 ice; and

9 “(iv) agree not to deny a claim sub-  
10 mitted by the State solely on the basis of  
11 the date of submission of the claim;”.

12 (c) EFFECTIVE DATE.—Except as provided in section  
13 6026(e), the amendments made by this section take effect  
14 on January 1, 2006.

15 **SEC. 6022. LIMITATION ON USE OF CONTINGENCY FEE AR-**  
16 **RANGEMENTS.**

17 (a) IN GENERAL.—Section 1903(i) (42 U.S.C.  
18 1396b(i)), as amended by section 104(b) of the QI, TMA,  
19 and Abstinence Programs Extension and Hurricane  
20 Katrina Unemployment Relief Act of 2005 (Public Law  
21 109–91), is amended—

22 (1) in paragraph (19), by adding “or” at the  
23 end;

24 (2) by striking the period at the end of para-  
25 graph (21) and inserting “; or”; and

1           (3) by inserting after paragraph (21), the fol-  
2           lowing:

3           “(22) with respect to any amount expended in  
4           connection with a contract or agreement (other than  
5           a risk contract under section 1903(m)) between the  
6           State agency under section 1902(a)(5) (or any State  
7           or local agency designated by such agency to admin-  
8           ister any portion of the State plan under this title)  
9           and a consultant or other contractor if the terms of  
10          compensation for the consultant or other contractor  
11          do not meet the standards established by the Inspec-  
12          tor General of the Department of Health and  
13          Human Services under section 6022(b) of the Def-  
14          icit Reduction Omnibus Reconciliation Act of  
15          2005.”.

16          (b) CONTINGENCY FEE ARRANGEMENT STAND-  
17          ARDS.—Not later than 6 months after the date of enact-  
18          ment of this Act, the Inspector General of the Department  
19          of Health and Human Services shall issue standards for  
20          the terms of compensation of consultants and other indi-  
21          viduals or entities contracting with State agencies (or their  
22          designees) administering State Medicaid plans under title  
23          XIX of the Social Security Act that ensure prudent pur-  
24          chasing and program integrity with respect to Federal  
25          funds. The Inspector General shall annually review and,

1 as necessary, revise such standards to promptly address  
 2 new compensation arrangements that may present a risk  
 3 to program integrity under such title.

4 (c) EFFECTIVE DATE.—Except as provided in section  
 5 6026(e), the amendments made by subsection (a) take ef-  
 6 fect on January 1, 2007.

7 **SEC. 6023. ENCOURAGING THE ENACTMENT OF STATE**  
 8 **FALSE CLAIMS ACTS.**

9 (a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et  
 10 seq.) is amended by inserting after section 1908A the fol-  
 11 lowing:

12 “STATE FALSE CLAIMS ACT REQUIREMENTS FOR  
 13 INCREASED STATE SHARE OF RECOVERIES

14 “SEC. 1909. (a) IN GENERAL.—Notwithstanding sec-  
 15 tion 1905(b), if a State has in effect a law relating to  
 16 false or fraudulent claims that meets the requirements of  
 17 subsection (b), the Federal medical assistance percentage  
 18 with respect to any amounts recovered under a State ac-  
 19 tion brought under such law, shall be decreased by 10 per-  
 20 centage points.

21 “(b) REQUIREMENTS.—For purposes of subsection  
 22 (a), the requirements of this subsection are that the In-  
 23 spector General of the Department of Health and Human  
 24 Services, in consultation with the Attorney General, deter-  
 25 mines that the State has in effect a law that meets the  
 26 following requirements:

1           “(1) The law establishes liability to the State  
2 for false or fraudulent claims described in section  
3 3729 of title 31, United States Code, with respect  
4 to any expenditure described in section 1903(a).

5           “(2) The law contains provisions that are at  
6 least as effective in rewarding and facilitating qui  
7 tam actions for false or fraudulent claims as those  
8 described in sections 3730 through 3732 of title 31,  
9 United States Code.

10           “(3) The law contains a requirement for filing  
11 an action under seal for 60 days with review by the  
12 State Attorney General.

13           “(4) The law contains a civil penalty that is not  
14 less than the amount of the civil penalty authorized  
15 under section 3729 of title 31, United States Code.

16           “(5) The law contains provisions that are de-  
17 signed to prevent a windfall recovery for a qui tam  
18 relator in the event that the relator files a Federal  
19 and State action for the same false or fraudulent  
20 claim.

21           “(c) DEEMED COMPLIANCE.—A State that, as of  
22 January 1, 2007, has a law in effect that meets the re-  
23 quirements of subsection (b) shall be deemed to be in com-  
24 pliance with such requirements for so long as the law con-  
25 tinues to meet such requirements.

1       “(d) NO PRECLUSION OF BROADER LAWS.—Nothing  
2 in this section shall be construed as prohibiting a State  
3 that has in effect a law that establishes liability to the  
4 State for false or fraudulent claims described in section  
5 3729 of title 31, United States Code, with respect to pro-  
6 grams in addition to the State program under this title,  
7 or with respect to expenditures in addition to expenditures  
8 described in section 1903(a), from being considered to be  
9 in compliance with the requirements of subsection (a) so  
10 long as the law meets such requirements.”.

11       (b) EFFECTIVE DATE.—Except as provided in sec-  
12 tion 6026(e), the amendments made by this section take  
13 effect on January 1, 2007.

14 **SEC. 6024. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS**  
15 **RECOVERY.**

16       (a) IN GENERAL.—Section 1902(a) (42 U.S.C.  
17 1396a(a)) is amended—

18           (1) in paragraph (66), by striking “and” at the  
19 end;

20           (2) in paragraph (67) by striking the period at  
21 the end and inserting “; and”; and

22           (3) by inserting after paragraph (67) the fol-  
23 lowing:

24           “(68) provide that any entity that receives or  
25 makes annual payments under the State plan of at

1 least \$1,000,000, as a condition of receiving such  
2 payments, shall—

3 “(A) establish written policies, procedures,  
4 and protocols for training of all employees of  
5 the entity (including management), and of any  
6 contractor or agent of the entity, that includes  
7 a detailed discussion of the False Claims Act  
8 established under sections 3729 through 3733  
9 of title 31, United States Code, administrative  
10 remedies for false claims and statements estab-  
11 lished under chapter 38 of title 31, United  
12 States Code, any State laws pertaining to civil  
13 or criminal penalties for false claims and state-  
14 ments, and whistleblower protections under  
15 such laws, with respect to the role of such laws  
16 in preventing and detecting fraud, waste, and  
17 abuse in Federal health care programs (as de-  
18 fined in section 1128B(f));

19 “(B) include as part of such written poli-  
20 cies, procedures, and protocols, detailed provi-  
21 sions and training regarding the entity’s poli-  
22 cies and procedures for detecting and pre-  
23 venting fraud, waste, and abuse;

24 “(C) include in any employee handbook for  
25 the entity, a specific discussion of the laws de-



1           “(E) with respect to any amount expended for  
2 reimbursement to a pharmacy under this title for  
3 the ingredient cost of a covered outpatient drug for  
4 which the pharmacy has already received payment  
5 under this title (other than with respect to a reason-  
6 able restocking fee for such drug); or”.

7           (b) EFFECTIVE DATE.—The amendments made by  
8 subsection (a) take effect on the first day of the first fiscal  
9 year quarter that begins after the date of enactment of  
10 this Act.

11 **SEC. 6026. MEDICAID INTEGRITY PROGRAM.**

12           (a) ESTABLISHMENT OF MEDICAID INTEGRITY PRO-  
13 GRAM; MEDICAID CFO; MEDICAID PROGRAM INTEGRITY  
14 OVERSIGHT BOARD.—Title XIX (42 U.S.C. 1396 et seq.)  
15 is amended—

16           (1) by redesignating section 1936 as section  
17 1938; and

18           (2) by inserting after section 1935 the fol-  
19 lowing:

20                   “MEDICAID INTEGRITY PROGRAM

21           “SEC. 1936. (a) IN GENERAL.—There is hereby es-  
22 tablished the Medicaid Integrity Program (in this section  
23 referred to as the ‘Program’) under which the Secretary  
24 shall promote the integrity of the program under this title  
25 by entering into contracts in accordance with this section

1 with eligible entities to carry out the activities described  
2 in subsection (b).

3 “(b) ACTIVITIES DESCRIBED—Activities described in  
4 this subsection are as follows:

5 “(1) Review of the actions of individuals or en-  
6 tities furnishing items or services (whether on a fee-  
7 for-service, risk, or other basis) for which payment  
8 may be made under a State plan approved under  
9 this title (or under any waiver of such plan approved  
10 under section 1115) to determine whether fraud,  
11 waste, or abuse has occurred, is likely to occur, or  
12 whether such actions have any potential for resulting  
13 in an expenditure of funds under this title in a man-  
14 ner which is not intended under the provisions of  
15 this title.

16 “(2) Audit of claims for payment for items or  
17 services furnished, or administrative services ren-  
18 dered, under a State plan under this title,  
19 including—

20 “(A) cost reports;

21 “(B) consulting contracts; and

22 “(C) risk contracts under section 1903(m).

23 “(3) Identification and recovery of overpay-  
24 ments to individuals or entities receiving Federal  
25 funds under this title.

1           “(4) Education of providers of services, man-  
2           aged care entities, beneficiaries, and other individ-  
3           uals with respect to payment integrity and benefit  
4           quality assurance issues.

5           “(c) ELIGIBLE ENTITY AND CONTRACTING REQUIRE-  
6           MENTS.—

7           “(1) IN GENERAL.—An entity is eligible to  
8           enter into a contract under the Program to carry  
9           out any of the activities described in subsection (b)  
10          if the entity satisfies the requirements of paragraphs  
11          (2) and (3).

12          “(2) ELIGIBILITY REQUIREMENTS.—The re-  
13          quirements of this paragraph are the following:

14                 “(A) The entity has demonstrated capa-  
15                 bility to carry out the activities described in  
16                 subsection (b).

17                 “(B) In carrying out such activities, the  
18                 entity agrees to cooperate with the Inspector  
19                 General of the Department of Health and  
20                 Human Services, the Attorney General, and  
21                 other law enforcement agencies, as appropriate,  
22                 in the investigation and deterrence of fraud and  
23                 abuse in relation to this title and in other cases  
24                 arising out of such activities.

1           “(C) The entity complies with such conflict  
2 of interest standards as are generally applicable  
3 to Federal acquisition and procurement.

4           “(D) The entity meets such other require-  
5 ments as the Secretary may impose.

6           “(3) CONTRACTING REQUIREMENTS.—The enti-  
7 ty has contracted with the Secretary in accordance  
8 with such procedures as the Secretary shall by regu-  
9 lation establish, except that such procedures shall in-  
10 clude the following:

11           “(A) Procedures for identifying, evalu-  
12 ating, and resolving organizational conflicts of  
13 interest that are generally applicable to Federal  
14 acquisition and procurement.

15           “(B) Competitive procedures to be used—

16           “(i) when entering into new contracts  
17 under this section;

18           “(ii) when entering into contracts that  
19 may result in the elimination of respon-  
20 sibilities under section 202(b) of the  
21 Health Insurance Portability and Account-  
22 ability Act of 1996; and

23           “(iii) at any other time considered ap-  
24 propriate by the Secretary.

1           “(C) Procedures under which a contract  
2           under this section may be renewed without re-  
3           gard to any provision of law requiring competi-  
4           tion if the contractor has met or exceeded the  
5           performance requirements established in the  
6           current contract.

7           The Secretary may enter into such contracts without  
8           regard to final rules having been promulgated.

9           “(4) LIMITATION ON CONTRACTOR LIABIL-  
10          ITY.—The Secretary shall by regulation provide for  
11          the limitation of a contractor’s liability for actions  
12          taken to carry out a contract under the Program,  
13          and such regulation shall, to the extent the Sec-  
14          retary finds appropriate, employ the same or com-  
15          parable standards and other substantive and proce-  
16          dural provisions as are contained in section 1157.

17          “(d) COMPREHENSIVE PLAN FOR PROGRAM INTEG-  
18          RITY.—

19                 “(1) 5-YEAR PLAN.—With respect to the 5 fis-  
20                 cal year period beginning with fiscal year 2006, and  
21                 each such 5-fiscal year period that begins thereafter,  
22                 the Secretary shall establish a comprehensive plan  
23                 for ensuring the integrity of the program established  
24                 under this title by combatting fraud, waste, and  
25                 abuse.

1           “(2) CONSULTATION.—Each 5-fiscal year plan  
2 established under paragraph (1) shall be developed  
3 by the Secretary in consultation with the Attorney  
4 General, the Director of the Federal Bureau of In-  
5 vestigation, the Comptroller General of the United  
6 States, the Inspector General of the Department of  
7 Health and Human Services, and State officials with  
8 responsibility for controlling provider fraud and  
9 abuse under State plans under this title.

10          “(e) APPROPRIATION.—

11           “(1) IN GENERAL.—Out of any money in the  
12 Treasury of the United States not otherwise appro-  
13 priated, there are appropriated to carry out the  
14 Medicaid Integrity Program under this section, with-  
15 out further appropriation—

16                   “(A) for fiscal year 2006, \$50,000,000;

17                   “(B) for each of fiscal years 2007 and  
18 2008, \$49,000,000;

19                   “(C) for each of fiscal years 2009 and  
20 2010, \$74,000,000; and

21                   “(D) for fiscal year 2011 and each fiscal  
22 year thereafter, \$75,000,000.

23           “(2) AVAILABILITY.—Amounts appropriated  
24 pursuant to paragraph (1) shall remain available  
25 until expended.

1           “(3) ANNUAL REPORT.—Not later than 180  
2 days after the end of each fiscal year (beginning  
3 with fiscal year 2006), the Secretary shall submit a  
4 report to Congress which identifies—

5                   “(A) the use of funds appropriated pursu-  
6 ant to paragraph (1); and

7                   “(B) the effectiveness of the use of such  
8 funds.”.

9           “MEDICAID CHIEF FINANCIAL OFFICER; MEDICAID  
10 PROGRAM INTEGRITY OVERSIGHT BOARD

11          “SEC. 1937. (a) ESTABLISHMENT OF MEDICAID  
12 CFO.—

13                   “(1) IN GENERAL.—There is established in the  
14 Centers for Medicare & Medicaid Services within the  
15 Office of Financial Management the position of  
16 Medicaid Chief Financial Officer. The Medicaid  
17 Chief Financial Officer shall be appointed by, and  
18 report directly to, the Administrator of such Cen-  
19 ters. The Medicaid Chief Financial Officer may be  
20 removed only for cause.

21                   “(2) DUTIES AND AUTHORITY.—The duties and  
22 authority of the Medicaid Chief Financial Officer  
23 with respect to the management and expenditure of  
24 Federal funds under this title shall be comparable to  
25 the duties and authority of other Chief Financial Of-  
26 ficers with respect to the management and expendi-

1       ture of Federal funds under Federal health care pro-  
2       grams (as defined in section 1128B(f)).

3       “(b) PROGRAM INTEGRITY OVERSIGHT BOARD.—  
4       The Secretary shall establish a Medicaid Program Integ-  
5       rity Oversight Board. The duties and authority of the  
6       Medicaid Program Integrity Oversight Board shall be  
7       comparable to the duties and authority of other oversight  
8       boards established for purposes of Federal health care pro-  
9       grams (as so defined) and shall include responsibility for  
10      identifying vulnerabilities in the State programs estab-  
11      lished under this title and developing strategies for mini-  
12      mizing integrity risks to such programs.”.

13      (b) STATE REQUIREMENT TO COOPERATE WITH IN-  
14      TEGRITY PROGRAM EFFORTS.—Section 1902(a) (42  
15      U.S.C. 1396a(a)), as amended by section 6024(a), is  
16      amended—

17           (1) in paragraph (67), by striking “and” at the  
18      end;

19           (2) in paragraph (68), by striking the period at  
20      the end and inserting “; and”; and

21           (3) by inserting after paragraph (68), the fol-  
22      lowing:

23           “(69) provide that the State must comply with  
24      any requirements determined by the Secretary to be  
25      necessary for carrying out the Medicaid Integrity

1 Program established under section 1936, or the du-  
2 ties of the Medicaid Chief Financial Officer and the  
3 Medicaid Program Integrity Oversight Board estab-  
4 lished under section 1937.”.

5 (c) INCREASED FUNDING FOR MEDICAID FRAUD AND  
6 ABUSE CONTROL ACTIVITIES.—

7 (1) IN GENERAL.—Out of any money in the  
8 Treasury of the United States not otherwise appro-  
9 priated, there are appropriated to the Office of the  
10 Inspector General of the Department of Health and  
11 Human Services, without further appropriation,  
12 \$25,000,000 for each of fiscal years 2006 through  
13 2010, for activities of such Office with respect to the  
14 Medicaid program under title XIX of the Social Se-  
15 curity Act (42 U.S.C. 1396 et seq.).

16 (2) AVAILABILITY; AMOUNTS IN ADDITION TO  
17 OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVI-  
18 TIES.—Amounts appropriated pursuant to para-  
19 graph (1) shall—

20 (A) remain available until expended; and

21 (B) be in addition to any other amounts  
22 appropriated or made available to the Office of  
23 the Inspector General of the Department of  
24 Health and Human Services for activities of

1           such Office with respect to the Medicaid pro-  
2           gram.

3           (3) ANNUAL REPORT.—Not later than 180 days  
4           after the end of each fiscal year (beginning with fis-  
5           cal year 2006), the Inspector General of the Depart-  
6           ment of Health and Human Services shall submit a  
7           report to Congress which identifies—

8                   (A) the use of funds appropriated pursuant  
9                   to paragraph (1); and

10                   (B) the effectiveness of the use of such  
11           funds.

12           (d) INCREASE IN CMS STAFFING DEVOTED TO EN-  
13           SURING MEDICAID PROGRAM INTEGRITY.—The Secretary  
14           shall significantly increase the number of full-time equiva-  
15           lent employees whose duties consist solely of ensuring the  
16           integrity of the Medicaid program established under title  
17           XIX of the Social Security Act by providing effective sup-  
18           port and assistance to States to combat provider fraud  
19           and abuse.

20           (e) DELAYED EFFECTIVE DATE FOR CHAPTER.—in  
21           the case of a State plan under title XIX of the Social Se-  
22           curity Act which the Secretary determines requires State  
23           legislation in order for the plan to meet the additional re-  
24           quirements imposed by the amendments made by a provi-  
25           sion of this chapter, the State plan shall not be regarded

1 as failing to comply with the requirements of such Act  
 2 solely on the basis of its failure to meet these additional  
 3 requirements before the first day of the first calendar  
 4 quarter beginning after the close of the first regular ses-  
 5 sion of the State legislature that begins after the date of  
 6 enactment of this Act. For purposes of the previous sen-  
 7 tence, in the case of a State that has a 2-year legislative  
 8 session, each year of the session shall be considered to be  
 9 a separate regular session of the State legislature.

10     **CHAPTER 4—STATE FINANCING UNDER**  
 11                                     **MEDICAID**

12     **SEC. 6031. REFORMS OF TARGETED CASE MANAGEMENT.**

13         (a) IN GENERAL.—Section 1915(g) (42 U.S.C.  
 14 1396n(g)(2)) is amended by striking paragraph (2) and  
 15 inserting the following:

16             “(2) For purposes of this subsection:

17                 “(A)(i) The term ‘case management services’  
 18                 means services which will assist individuals eligible  
 19                 under the plan in gaining access to needed medical,  
 20                 social, educational, and other services.

21                 “(ii) Such term includes the following:

22                         “(I) Assessment of an eligible individual to  
 23                         determine service needs, including activities  
 24                         that focus on needs identification, to determine  
 25                         the need for any medical, educational, social, or

1 other services. Such assessment activities in-  
2 clude the following:

3 “(aa) Taking client history.

4 “(bb) Identifying the needs of the in-  
5 dividual, and completing related docu-  
6 mentation.

7 “(cc) Gathering information from  
8 other sources such as family members,  
9 medical providers, social workers, and edu-  
10 cators, if necessary, to form a complete as-  
11 sessment of the eligible individual.

12 “(II) Development of a specific care plan  
13 based on the information collected through an  
14 assessment, that specifies the goals and actions  
15 to address the medical, social, educational, and  
16 other services needed by the eligible individual,  
17 including activities such as ensuring the active  
18 participation of the eligible individual and work-  
19 ing with the individual (or the individual’s au-  
20 thorized health care decision maker) and others  
21 to develop such goals and identify a course of  
22 action to respond to the assessed needs of the  
23 eligible individual.

24 “(III) Referral and related activities to  
25 help an individual obtain needed services, in-

1 including activities that help link eligible individ-  
2 uals with medical, social, educational providers  
3 or other programs and services that are capable  
4 of providing needed services, such as making re-  
5 ferrals to providers for needed services and  
6 scheduling appointments for the individual.

7 “(IV) Monitoring and followup activities,  
8 including activities and contacts that are nec-  
9 essary to ensure the care plan is effectively im-  
10 plemented and adequately addressing the needs  
11 of the eligible individual, and which may be  
12 with the individual, family members, providers,  
13 or other entities and conducted as frequently as  
14 necessary to help determine such matters as—

15 “(aa) whether services are being fur-  
16 nished in accordance with an individual’s  
17 care plan;

18 “(bb) whether the services in the care  
19 plan are adequate; and

20 “(cc) whether there are changes in the  
21 needs or status of the eligible individual,  
22 and if so, making necessary adjustments in  
23 the care plan and service arrangements  
24 with providers.

1           “(iii) Such term does not include the direct de-  
2           livery of an underlying medical, educational, social,  
3           or other service to which an eligible individual has  
4           been referred, including, with respect to the direct  
5           delivery of foster care services, services such as (but  
6           not limited to) the following:

7                   “(I) Research gathering and completion of  
8                   documentation required by the foster care pro-  
9                   gram.

10                   “(II) Assessing adoption placements.

11                   “(III) Recruiting or interviewing potential  
12                   foster care parents.

13                   “(IV) Serving legal papers.

14                   “(V) Home investigations.

15                   “(VI) Providing transportation.

16                   “(VII) Administering foster care subsidies.

17                   “(VIII) Making placement arrangements.

18           “(B) The term ‘targeted case management serv-  
19           ices’ are case management services that are fur-  
20           nished without regard to the requirements of section  
21           1902(a)(1) and section 1902(a)(10)(B) to specific  
22           classes of individuals or to individuals who reside in  
23           specified areas.

24           “(3) With respect to contacts with individuals who  
25           are not eligible for medical assistance under the State plan

1 or, in the case of targeted case management services, indi-  
2 viduals who are eligible for such assistance but are not  
3 part of the target population specified in the State plan,  
4 such contacts—

5 “(A) are considered an allowable case manage-  
6 ment activity, when the purpose of the contact is di-  
7 rectly related to the management of the eligible indi-  
8 vidual’s care; and

9 “(B) are not considered an allowable case man-  
10 agement activity if such contacts relate directly to  
11 the identification and management of the noneligible  
12 or nontargeted individual’s needs and care.

13 “(4)(A) In accordance with section 1902(a)(25), Fed-  
14 eral financial participation only is available under this title  
15 for case management services or targeted case manage-  
16 ment services if there are no other third parties liable to  
17 pay for such services, including as reimbursement under  
18 a medical, social, educational, or other program.

19 “(B) A State shall allocate the costs of any part of  
20 such services which are reimbursable under another feder-  
21 ally funded program in accordance with OMB Circular A-  
22 87 (or any related or successor guidance or regulations  
23 regarding allocation of costs among federally funded pro-  
24 grams) under an approved cost allocation program.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on January 1, 2006.

3 **SEC. 6032. TEMPORARY FEDERAL MATCHING PAYMENTS**  
4 **FOR FEDERAL ASSISTANCE.**

5 (a) 100 PERCENT FEDERAL MATCHING PAYMENTS  
6 FOR MEDICAL ASSISTANCE PROVIDED TO SPECIFIED IN-  
7 DIVIDUALS.—

8 (1) IN GENERAL.—Notwithstanding section  
9 1905(b) of the Social Security Act (42 U.S.C.  
10 1396d(b)), for items and services furnished during  
11 the period that begins on August 28, 2005, and ends  
12 on May 15, 2006, the Federal medical assistance  
13 percentage for providing medical assistance for such  
14 items and services under a State Medicaid plan to  
15 a specified individual (as defined in subsection (b)),  
16 and for costs directly attributable to all administra-  
17 tive activities that relate to the provision of such  
18 medical assistance, shall be 100 percent.

19 (2) APPLICATION TO CHILD HEALTH ASSIST-  
20 ANCE.—Notwithstanding section 2105(b) of the So-  
21 cial Security Act (42 U.S.C. 1397ee(b)), for items  
22 and services furnished during the period described in  
23 paragraph (1), the Federal matching rate for pro-  
24 viding child health assistance for such items and  
25 services under a State child health plan to a speci-

1       fied individual (as so defined), and for costs directly  
2       attributable to all administrative activities that re-  
3       late to the provision of such child health assistance,  
4       shall be 100 percent.

5       (b) SPECIFIED INDIVIDUAL.—

6           (1) IN GENERAL.—For purposes of subsection  
7       (a), the term “specified individual” means an indi-  
8       vidual who, on any day during the week preceding  
9       August 28, 2005, had a primary residence in a Lou-  
10      isiana parish described in paragraph (2), a Mis-  
11      sissippi county described in paragraph (3), or an  
12      Alabama county described in paragraph (4).

13          (2) LOUISIANA PARISHES DESCRIBED.—For  
14      purposes of paragraph (1), the Louisiana parishes  
15      described in this paragraph are the following:

16           (A) Acadia.

17           (B) Ascension.

18           (C) Assumption.

19           (D) Calcasieu.

20           (E) Cameron.

21           (F) East Baton Rouge.

22           (G) East Feliciana.

23           (H) Iberia.

24           (I) Iberville.

25           (J) Jefferson.

- 1 (K) Jefferson Davis.
- 2 (L) Lafayette.
- 3 (M) Lafourche.
- 4 (N) Livingston.
- 5 (O) Orleans.
- 6 (P) Pointe Coupee.
- 7 (Q) Plaquemines.
- 8 (R) St. Bernard.
- 9 (S) St. Charles.
- 10 (T) St. Helena.
- 11 (U) St. James.
- 12 (V) St. John.
- 13 (W) St. Mary.
- 14 (X) St. Martin.
- 15 (Y) St. Tammany.
- 16 (Z) Tangipahoa.
- 17 (AA) Terrebonne.
- 18 (BB) Vermilion.
- 19 (CC) Washington.
- 20 (DD) West Baton Rouge.
- 21 (EE) West Feliciana.

22 (3) MISSISSIPPI COUNTIES DESCRIBED.—For  
23 purposes of paragraph (1), the Mississippi counties  
24 described in this paragraph are the following:

- 25 (A) Adams.

- 1 (B) Amite.
- 2 (C) Attala.
- 3 (D) Clairborne.
- 4 (E) Choctaw.
- 5 (F) Clarke.
- 6 (G) Copiah.
- 7 (H) Covington.
- 8 (I) Forrest.
- 9 (J) Franklin.
- 10 (K) George.
- 11 (L) Greene.
- 12 (M) Hancock.
- 13 (N) Harrison.
- 14 (O) Hinds.
- 15 (P) Jackson.
- 16 (Q) Jasper.
- 17 (R) Jefferson.
- 18 (S) Jefferson Davis.
- 19 (T) Jones.
- 20 (U) Kemper.
- 21 (V) Lamar.
- 22 (W) Lauderdale.
- 23 (X) Lawrence.
- 24 (Y) Leake.
- 25 (Z) Lincoln.

- 1 (AA) Lowndes.
- 2 (BB) Madison.
- 3 (CC) Marion.
- 4 (DD) Neshoba.
- 5 (EE) Newton.
- 6 (FF) Noxubee.
- 7 (GG) Oktibbeha.
- 8 (HH) Pearl River.
- 9 (II) Perry.
- 10 (JJ) Pike.
- 11 (KK) Rankin.
- 12 (LL) Scott.
- 13 (MM) Simpson.
- 14 (NN) Smith.
- 15 (OO) Stone.
- 16 (PP) Walthall.
- 17 (QQ) Warren.
- 18 (RR) Wayne.
- 19 (SS) Wilkinson.
- 20 (TT) Winston.
- 21 (UU) Yazoo.

22 (4) ALABAMA COUNTIES DESCRIBED.—For pur-  
23 poses of paragraph (1) the Alabama counties de-  
24 scribed in this paragraph are the following:

- 25 (A) Baldwin.

- 1 (B) Choctaw.
- 2 (C) Clarke.
- 3 (D) Greene.
- 4 (E) Hale.
- 5 (F) Marengo.
- 6 (G) Mobile.
- 7 (H) Pickens.
- 8 (I) Sumter.
- 9 (J) Tuscaloosa.
- 10 (K) Washington.

11 (c) FMAP ADJUSTMENT.—Notwithstanding the first  
12 sentence of section 1905(b) of the Social Security Act (42  
13 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI  
14 of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa  
15 et seq.), the Federal medical assistance percentage deter-  
16 mined for Alaska for fiscal year 2006 or fiscal year 2007  
17 is less than the Federal medical assistance percentage de-  
18 termined for Alaska for fiscal year 2005, the Federal med-  
19 ical assistance percentage determined for Alaska for fiscal  
20 year 2005 shall be substituted for the Federal medical as-  
21 sistance percentage otherwise determined for Alaska for  
22 fiscal year 2006 or fiscal year 2007, as the case may be.

1 **SEC. 6033. MANAGED CARE ORGANIZATION PROVIDER TAX**  
2 **REFORM.**

3 (a) IN GENERAL.—Section 1903(w)(7)(A)(viii) (42  
4 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as fol-  
5 lows:

6 “(viii) Services of managed care organiza-  
7 tions (including health maintenance organiza-  
8 tions, preferred provider organizations, and  
9 such other similar organizations as the Sec-  
10 retary may specify by regulation).”.

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendment made by subsection (a)  
14 shall take effect on January 1, 2006.

15 (2) NONAPPLICATION.—The amendment made  
16 by subsection (a) shall not apply in the case of a  
17 State that, as of December 31, 2005, has in effect  
18 a tax imposed on the class of health care items and  
19 services described in section 1903(w)(7)(A)(viii) of  
20 the Social Security Act (42 U.S.C.  
21 1396b(w)(7)(A)(viii)) (as in effect before the date of  
22 enactment of this Act).

23 **SEC. 6034. INCLUSION OF PODIATRISTS AS PHYSICIANS.**

24 (a) IN GENERAL.—Section 1905(a)(5)(A) (42 U.S.C.  
25 1396d(a)(5)(A)) is amended by striking “section

1 1861(r)(1)” and inserting “paragraphs (1) and (3) of sec-  
2 tion 1861(r)”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply to services furnished on or after  
5 January 1, 2006.

6 **SEC. 6035. DSH ALLOTMENT FOR THE DISTRICT OF COLUM-**  
7 **BIA.**

8 (a) IN GENERAL.—The table in section 1923(f)(2)  
9 (42 U.S.C. 1396r-4(f)(2)) is amended under each of the  
10 columns for FY 00, FY 01, and FY 02, in the entry for  
11 the District of Columbia, by striking “32” and inserting  
12 “49”.

13 (b) EFFECTIVE DATE.—The amendments made by  
14 subsection (a) shall take effect as if enacted on October  
15 1, 2005 and shall apply to expenditures made on or after  
16 that date.

17 **SEC. 6036. DEMONSTRATION PROJECT REGARDING MED-**  
18 **ICAID REIMBURSEMENT FOR STABILIZATION**  
19 **OF EMERGENCY MEDICAL CONDITIONS BY**  
20 **NON-PUBLICLY OWNED OR OPERATED INSTI-**  
21 **TUTIONS FOR MENTAL DISEASES.**

22 (a) AUTHORITY TO CONDUCT DEMONSTRATION  
23 PROJECT.—The Secretary shall establish a demonstration  
24 project under which an eligible State (as defined in sub-  
25 section (b)) shall provide reimbursement under the State

1    medicaid plan to an institution for mental diseases that  
2    is not publicly owned or operated and that is subject to  
3    the requirements of section 1867 of the Social Security  
4    Act (42 U.S.C, 1395dd) for the provision of medical as-  
5    sistance available under such plan to an individual who—

6           (1) has attained age 21, but has not attained  
7           age 65;

8           (2) is eligible for medical assistance under such  
9           plan; and

10          (3) requires such medical assistance to stabilize  
11          an emergency medical condition.

12          (b) ELIGIBLE STATE DEFINED.—

13           (1) APPLICATION.—Upon approval of an appli-  
14           cation submitted by a State described in paragraph  
15           (2), the State shall be an eligible State for purposes  
16           of conducting a demonstration project under this  
17           section.

18           (2) STATE DESCRIBED.—A State described in  
19           this paragraph is each of the following:

20                   (A) Arizona.

21                   (B) Arkansas.

22                   (C) Louisiana.

23                   (D) Maine.

24                   (E) North Dakota.

25                   (F) Wyoming.

1           (G) Four other States selected by the Sec-  
2           retary to provide geographic diversity on the  
3           basis of the application to conduct a demonstra-  
4           tion project under this section submitted by  
5           such States.

6           (c) LENGTH OF DEMONSTRATION PROJECT.—The  
7           demonstration project established under this section shall  
8           be conducted for a period of 3 consecutive years.

9           (d) LIMITATIONS ON FEDERAL FUNDING.—

10           (1) APPROPRIATION.—

11           (A) IN GENERAL.—Out of any funds in the  
12           Treasury not otherwise appropriated, there is  
13           appropriated to carry out this section,  
14           \$30,000,000 for fiscal year 2006.

15           (B) BUDGET AUTHORITY.—Subparagraph  
16           (A) constitutes budget authority in advance of  
17           appropriations Act and represents the obliga-  
18           tion of the Federal Government to provide for  
19           the payment of the amounts appropriated under  
20           that subparagraph.

21           (2) 3-YEAR AVAILABILITY.—Funds appro-  
22           priated under paragraph (1) shall remain available  
23           for obligation through December 31, 2008.

24           (3) LIMITATION ON PAYMENTS.—In no case  
25           may—

1           (A) the aggregate amount of payments  
2           made by the Secretary to eligible States under  
3           this section exceed \$30,000,000; or

4           (B) payments be provided by the Secretary  
5           under this section after December 31, 2008.

6           (4) FUNDS ALLOCATED TO STATES.—The Sec-  
7           retary shall allocate funds to eligible States based on  
8           their applications and the availability of funds.

9           (5) PAYMENTS TO STATES.—The Secretary  
10          shall pay to each eligible State, from its allocation  
11          under paragraph (4), an amount each quarter equal  
12          to the Federal medical assistance percentage of ex-  
13          penditures in the quarter for medical assistance de-  
14          scribed in subsection (a).

15          (e) REPORTS.—

16           (1) ANNUAL PROGRESS REPORTS.—The Sec-  
17          retary shall submit annual reports to Congress on  
18          the progress of the demonstration project conducted  
19          under this section.

20           (2) FINAL REPORT AND RECOMMENDATION.—  
21          Not later than March 31, 2009, the Secretary shall  
22          submit to Congress a final report on the demonstra-  
23          tion project conducted under this section that shall  
24          include the following:

1           (A) A determination as to whether the  
2 demonstration project resulted in increased ac-  
3 cess to inpatient mental health services under  
4 the medicaid program.

5           (B) An analysis regarding whether the  
6 demonstration project produced a significant re-  
7 duction in the use of higher cost emergency  
8 room visits for individuals eligible for medical  
9 assistance under the medicaid program.

10          (C) An assessment of the impact of the  
11 demonstration project on the costs related to  
12 the provision of inpatient psychiatric care and  
13 services under the medicaid program.

14          (D) A recommendation regarding whether  
15 the demonstration project should be continued  
16 after December 31, 2008, and expanded on a  
17 national basis.

18 (f) WAIVER AUTHORITY.—

19          (1) IN GENERAL.—The Secretary shall waive  
20 the limitation of subdivision (B) following paragraph  
21 (28) of section 1905(a) of the Social Security Act  
22 (42 U.S.C. 1396d(a)) (relating to limitations on pay-  
23 ments for care or services for individuals under 65  
24 years of age who are patients in an institution for

1        mental diseases) for purposes of carrying out the  
2        demonstration project under this section.

3            (2) LIMITED OTHER WAIVER AUTHORITY.—The  
4        Secretary may waive other requirements of titles XI  
5        and XIX of the Social Security Act (including the  
6        requirements of sections 1902(a)(1) (relating to  
7        statewideness) and 1902(a)(10)(B) (relating to com-  
8        parability)) only to extent necessary to carry out the  
9        demonstration project under this section.

10        (g) DEFINITIONS.—In this section:

11            (1) EMERGENCY MEDICAL CONDITION.—The  
12        term “emergency medical condition” has the mean-  
13        ing given that term in section 1867(e)(1) of the So-  
14        cial Security Act (42 U.S.C. 1395dd(e)(1)).

15            (2) FEDERAL MEDICAL ASSISTANCE PERCENT-  
16        AGE.—The term “Federal medical assistance per-  
17        centage” has the meaning given that term with re-  
18        spect to a State in section 1905(b) of the Social Se-  
19        curity Act (42 U.S.C. 1396d(b)).

20            (3) INSTITUTION FOR MENTAL DISEASES.—The  
21        term “institution for mental diseases” has the mean-  
22        ing given that term in section 1905(i) of the Social  
23        Security Act (42 U.S.C. 1396d(i)).

24            (4) MEDICAL ASSISTANCE.—The term “medical  
25        assistance” has the meaning given that term in sec-

1 tion 1905(a) of the Social Security Act (42 U.S.C.  
2 1396d(a)).

3 (5) STABILIZE.—The term “stabilize” has the  
4 meaning given that term in section 1867(e)(3)(A) of  
5 the Social Security Act (42 U.S.C.  
6 1395dd(e)(3)(A)).

7 (6) STATE.—The term “State” has the mean-  
8 ing given that term for purposes of title XIX of the  
9 Social Security Act (42 U.S.C. 1396 et seq.).

10 **SEC. 6037. LIMITATION ON SEVERE REDUCTION IN THE**  
11 **MEDICAID FMAP FOR FISCAL YEAR 2006.**

12 (a) LIMITATION ON REDUCTION.—In no case shall  
13 the FMAP for a State for fiscal year 2006 be less than  
14 the greater of the following:

15 (1) 2005 FMAP DECREASED BY THE APPLICA-  
16 BLE PERCENTAGE POINTS.—The FMAP determined  
17 for the State for fiscal year 2005, decreased by—

18 (A) 0.1 percentage points in the case of  
19 Delaware and Michigan;

20 (B) 0.3 percentage points in the case of  
21 Kentucky; and

22 (C) 0.5 percentage points in the case of  
23 any other State.

24 (2) COMPUTATION WITHOUT RETROACTIVE AP-  
25 PPLICATION OF REBENCHMARKED PER CAPITA IN-

1       COME.—The FMAP that would have been deter-  
2       mined for the State for fiscal year 2006 if the per  
3       capita incomes for 2001 and 2002 that was used to  
4       determine the FMAP for the State for fiscal year  
5       2005 were used.

6       (b) SCOPE OF APPLICATION.—The FMAP applicable  
7       to a State for fiscal year 2006 after the application of  
8       subsection (a) shall apply only for purposes of titles XIX  
9       and XXI of the Social Security Act (including for purposes  
10      of making disproportionate share hospital payments de-  
11      scribed in section 1923 of such Act (42 U.S.C. 1396r-  
12      4) and payments under such titles that are based on the  
13      enhanced FMAP described in section 2105(b) of such Act  
14      (42 U.S.C. 1397ee(b))) and shall not apply with respect  
15      to payments under title IV of such Act (42 U.S.C. 601  
16      et seq.).

17      (c) DEFINITIONS.—In this section:

18           (1) FMAP.—The term “FMAP” means the  
19           Federal medical assistance percentage, as defined in  
20           section 1905(b) of the Social Security Act (42  
21           U.S.C. 1396d(b)).

22           (2) STATE.—The term “State” has the mean-  
23           ing given such term for purposes of title XIX of the  
24           Social Security Act (42 U.S.C. 1396 et seq.).

1 (d) REPEAL.—Effective as of October 1, 2006, this  
2 section is repealed and shall not apply to any fiscal year  
3 after fiscal year 2006.

4 **SEC. 6038. EXTENSION OF PRESCRIPTION DRUG REBATES**  
5 **TO ENROLLEES IN MEDICAID MANAGED**  
6 **CARE ORGANIZATIONS.**

7 (a) IN GENERAL.—Section 1927(j)(1) (42 U.S.C.  
8 1396r–8(j)(1)) is amended by striking “dispensed” and all  
9 that follows through the period and inserting “are not sub-  
10 ject to the requirements of this section if such drugs are—

11 “(A) dispensed by health maintenance organiza-  
12 tions that contract under section 1903(m); and

13 “(B) subject to discounts under section 340B of  
14 the Public Health Service Act (42 U.S.C. 256b).”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall take effect on the date of enactment  
17 of this Act and apply to rebate agreements entered into  
18 or renewed under section 1927 of the Social Security Act  
19 (42 U.S.C. 1396r–8) on or after such date.

20 **SEC. 6039. EXTENSION OF THE MEDICARE PART A AND B**  
21 **PAYMENT HOLIDAY.**

22 Section 6112(b)(1) of this Act is amended by striking  
23 “September 22, 2006” and inserting “September 21,  
24 2006”.

1 **SEC. 6039A. SENSE OF THE SENATE.**

2 (a) FINDINGS.—The Senate makes the following  
3 findings:

4 (1) On October 26, 2005, the Committee on  
5 Ways and Means of the United States House of  
6 Representatives approved a budget reconciliation  
7 package that would significantly reduce the Federal  
8 Government’s funding used to pay for the child sup-  
9 port program established under part D of title IV of  
10 the Social Security Act (42 U.S.C. 651 et seq.) and  
11 would restrict the ability of States to use Federal  
12 child support incentive payments for child support  
13 program expenditures that are eligible for Federal  
14 matching payments.

15 (2) The child support program enforces the re-  
16 sponsibility of non-custodial parents to support their  
17 children. The program is jointly funded by Federal,  
18 State and local governments.

19 (3) The Office of Management and Budget gave  
20 the child support program a 90 percent rating under  
21 the Program Assessment Rating Tool (PART), mak-  
22 ing it the highest performing social services pro-  
23 gram.

24 (4) The President’s 2006 budget cites the child  
25 support program as “one of the highest rated block/  
26 formula grants of all reviewed programs govern-

1       ment-wide. This high rating is due to its strong mis-  
2       sion, effective management, and demonstration of  
3       measurable progress toward meeting annual and  
4       long term performance measures.”

5           (5) In 2004, the child support program spent  
6       \$5,300,000,000 to collect \$21,900,000,000 in sup-  
7       port payments. Public investment in the child sup-  
8       port program provides more than a four-fold return,  
9       collecting \$4.38 in child support for every Federal  
10      and State dollar that the program spends.

11          (6) In 2004, 17,300,000 children, or 60 percent  
12      of all children living apart from a parent, received  
13      child support services through the program. The per-  
14      centage is higher for poor children—84 percent of  
15      poor children living apart from their parent receive  
16      child support services through the program. Families  
17      assisted by the child support program generally have  
18      low or moderate incomes.

19          (7) Children who receive child support from  
20      their parents do better in school than those that do  
21      not receive support payments. Older children with  
22      child support payments are more likely to finish high  
23      school and attend college.

24          (8) The child support program directly de-  
25      creases the costs of other public assistance programs

1 by increasing family self-sufficiency. The more effective  
2 the child support program in a State, the higher  
3 the savings in public assistance costs.

4 (9) Child support helps lift more than  
5 1,000,000 Americans out of poverty each year.

6 (10) Families that are former recipients of assistance  
7 under the temporary assistance for needy families program  
8 (TANF) have seen the greatest increase in child support  
9 payments. Collections for these families increased 94 percent  
10 between 1999 and 2004, even though the number of former TANF  
11 families did not increase during this period.

12 (11) Families that receive child support are  
13 more likely to find and hold jobs, and less likely to  
14 be poor than comparable families without child support.  
15

16 (12) The child support program saved costs in  
17 the TANF, Medicaid, Food Stamps, Supplemental  
18 Security Income, and subsidized housing programs.

19 (13) The Congressional Budget Office estimates  
20 that the funding cuts proposed by the Committee on  
21 Ways and Means of the House of Representatives  
22 would reduce child support collections by nearly  
23 \$7,900,000,000 in the next 5 years and  
24 \$24,100,000,000 in the next 10 years.  
25



1        medicaid plan approved on or before 1982, if such  
2        services are provided consistent with such definition  
3        and the requirements of such plan; or

4                (2) withdraw Federal approval of any such  
5        State plan or part thereof regarding the provision of  
6        such services.

7        **SEC. 6039C. DEMONSTRATION PROJECT REGARDING MED-**  
8                        **ICAID COVERAGE OF LOW-INCOME HIV-IN-**  
9                        **FECTED INDIVIDUALS.**

10       (a) REQUIREMENT TO CONDUCT DEMONSTRATION  
11       PROJECT.—

12               (1) IN GENERAL.—The Secretary shall establish  
13       a demonstration project under which a State may  
14       apply under section 1115 of the Social Security Act  
15       (42 U.S.C. 1315) to provide medical assistance  
16       under a State medicaid program to HIV-infected in-  
17       dividuals described in subsection (b) in accordance  
18       with the provisions of this section.

19               (2) LIMITATION ON NUMBER OF APPROVED AP-  
20       PLICATIONS.—The Secretary shall only approve as  
21       many State applications to provide medical assist-  
22       ance in accordance with this section as will not ex-  
23       ceed the limitation on aggregate payments under  
24       subsection (d)(2)(A).

1           (3) AUTHORITY TO WAIVE RESTRICTIONS ON  
2           PAYMENTS TO TERRITORIES.—The Secretary shall  
3           waive the limitations on payment under subsections  
4           (f) and (g) of section 1108 of the Social Security  
5           Act (42 U.S.C. 1308) in the case of a State that is  
6           subject to such limitations and submits an approved  
7           application to provide medical assistance in accord-  
8           ance with this section.

9           (b) HIV-INFECTED INDIVIDUALS DESCRIBED.—For  
10          purposes of subsection (a), HIV-infected individuals de-  
11          scribed in this subsection are individuals who are not de-  
12          scribed in section 1902(a)(10)(A)(i) of the Social Security  
13          Act (42 U.S.C. 1396a(a)(10)(A)(i))—

14                 (1) who have HIV infection;

15                 (2) whose income (as determined under the  
16          State Medicaid plan with respect to disabled individ-  
17          uals) does not exceed 200 percent of the poverty line  
18          (as defined in section 2110(c)(5) of the Social Secu-  
19          rity Act (42 U.S.C. 1397jj(c)(5)); and

20                 (3) whose resources (as determined under the  
21          State Medicaid plan with respect to disabled individ-  
22          uals) do not exceed the maximum amount of re-  
23          sources a disabled individual described in section  
24          1902(a)(10)(A)(i) of such Act may have and obtain  
25          medical assistance under such plan.

1 (c) LENGTH OF PERIOD FOR PROVISION OF MEDICAL  
2 ASSISTANCE.—A State shall not be approved to provide  
3 medical assistance to an HIV-infected individual in ac-  
4 cordance with the demonstration project established under  
5 this section for a period of more than 5 consecutive years.

6 (d) LIMITATIONS ON FEDERAL FUNDING.—

7 (1) APPROPRIATION.—

8 (A) IN GENERAL.—Out of any funds in the  
9 Treasury not otherwise appropriated, there is  
10 appropriated to carry out this section,  
11 \$450,000,000 for the period of fiscal years  
12 2006 through 2010.

13 (B) BUDGET AUTHORITY.—Subparagraph  
14 (A) constitutes budget authority in advance of  
15 appropriations Act and represents the obliga-  
16 tion of the Federal Government to provide for  
17 the payment of the amounts appropriated under  
18 that subparagraph.

19 (2) LIMITATION ON PAYMENTS.—In no case  
20 may—

21 (A) the aggregate amount of payments  
22 made by the Secretary to eligible States under  
23 this section exceed \$450,000,000; or

24 (B) payments be provided by the Secretary  
25 under this section after September 30, 2010.

1           (3) FUNDS ALLOCATED TO STATES.—The Sec-  
2           retary shall allocate funds to States with approved  
3           applications under this section based on their appli-  
4           cations and the availability of funds.

5           (4) PAYMENTS TO STATES.—The Secretary  
6           shall pay to each State, from its allocation under  
7           paragraph (3), an amount each quarter equal to the  
8           enhanced Federal medical assistance percentage de-  
9           scribed in section 2105(b) of the Social Security Act  
10          (42 U.S.C. 1397ee(b)) of expenditures in the quarter  
11          for medical assistance provided to HIV-infected indi-  
12          viduals who are eligible for such assistance under a  
13          State Medicaid program in accordance with the dem-  
14          onstration project established under this section.

15          (e) EVALUATION AND REPORT.—

16               (1) EVALUATION.—The Secretary shall conduct  
17               an evaluation of the demonstration project estab-  
18               lished under this section. Such evaluation shall in-  
19               clude an analysis of the cost-effectiveness of the  
20               project and the impact of the project on the Medi-  
21               care, Medicaid, and Supplemental Security Income  
22               programs established under titles XVIII, XIX, and  
23               XVI, respectively, of the Social Security Act (42  
24               U.S.C. 1395 et seq., 1396 et seq., 1381 et seq.).

1           (2) REPORT TO CONGRESS.—Not later than De-  
 2           cember 31, 2010, the Secretary shall submit a re-  
 3           port to Congress on the results of the evaluation of  
 4           the demonstration project established under this sec-  
 5           tion.

6           (f) EFFECTIVE DATE.—This section shall take effect  
 7           on January 1, 2006.

8   **SEC. 6039D. ADDITIONAL INCREASE IN REBATE FOR SIN-**  
 9                           **GLE SOURCE AND INNOVATOR MULTIPLE**  
 10                          **SOURCE DRUGS.**

11           Section 1927(c)(1)(B)(i)(VI) (42 U.S.C. 1396r-  
 12           8(c)(1)(B)(i)(VI)), as added by section 6002(a)(3), is  
 13           amended by striking “17” and inserting “17.8”.

14   **CHAPTER 5—IMPROVING THE MEDICAID**  
 15                          **AND STATE CHILDREN’S HEALTH IN-**  
 16                          **SURANCE PROGRAMS**

17           **Subchapter A—Family Opportunity Act**

18   **SEC. 6041. SHORT TITLE OF SUBCHAPTER.**

19           This subchapter may be cited as the “Family Oppor-  
 20           tunity Act of 2005” or the “Dylan Lee James Act”.

1 **SEC. 6042. OPPORTUNITY FOR FAMILIES OF DISABLED**  
 2 **CHILDREN TO PURCHASE MEDICAID COV-**  
 3 **ERAGE FOR SUCH CHILDREN.**

4 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-  
 5 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE  
 6 FOR SUCH CHILDREN.—

7 (1) IN GENERAL.—Section 1902 (42 U.S.C.  
 8 1396a) is amended—

9 (A) in subsection (a)(10)(A)(ii)—

10 (i) by striking “or” at the end of sub-  
 11 clause (XVII);

12 (ii) by adding “or” at the end of sub-  
 13 clause (XVIII); and

14 (iii) by adding at the end the fol-  
 15 lowing new subclause:

16 “(XIX) who are disabled children  
 17 described in subsection (cc)(1);” and

18 (B) by adding at the end the following new  
 19 subsection:

20 “(cc)(1) Individuals described in this paragraph are  
 21 individuals—

22 “(A) who are children who have not attained 19  
 23 years of age and are born—

24 “(i) on or after January 1, 2002 (or, at  
 25 the option of a State, on or after an earlier

1           date), in the case of the second, third, and  
2           fourth quarters of fiscal year 2008;

3           “(ii) on or after October 1, 1996 (or, at  
4           the option of a State, on or after an earlier  
5           date), in the case of each quarter of fiscal year  
6           2009; and

7           “(iii) after October 1, 1990, in the case of  
8           each quarter of fiscal year 2010 and each quar-  
9           ter of any fiscal year thereafter;

10          “(B) who would be considered disabled under  
11          section 1614(a)(3)(C) but for having earnings or  
12          deemed income or resources (as determined under  
13          title XVI for children) that exceed the requirements  
14          for receipt of supplemental security income benefits;  
15          and

16          “(C) whose family income does not exceed such  
17          income level as the State establishes and does not  
18          exceed—

19                 “(i) 300 percent of the poverty line (as de-  
20                 fined in section 2110(c)(5)) applicable to a fam-  
21                 ily of the size involved; or

22                 “(ii) such higher percent of such poverty  
23                 line as a State may establish, except that—

24                         “(I) any medical assistance provided  
25                         to an individual whose family income ex-

1 ceeds 300 percent of such poverty line may  
2 only be provided with State funds; and

3 “(II) no Federal financial participa-  
4 tion shall be provided under section  
5 1903(a) for any medical assistance pro-  
6 vided to such an individual.”.

7 (2) INTERACTION WITH EMPLOYER-SPONSORED  
8 FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C.  
9 1396a(cc)), as added by paragraph (1)(B), is  
10 amended by adding at the end the following new  
11 paragraph:

12 “(2)(A) If an employer of a parent of an individual  
13 described in paragraph (1) offers family coverage under  
14 a group health plan (as defined in section 2791(a) of the  
15 Public Health Service Act), the State shall—

16 “(i) require such parent to apply for, enroll in,  
17 and pay premiums for such coverage as a condition  
18 of such parent’s child being or remaining eligible for  
19 medical assistance under subsection  
20 (a)(10)(A)(ii)(XIX) if the parent is determined eligi-  
21 ble for such coverage and the employer contributes  
22 at least 50 percent of the total cost of annual pre-  
23 miums for such coverage; and

24 “(ii) if such coverage is obtained—

1           “(I) subject to paragraph (2) of section  
2           1916(h), reduce the premium imposed by the  
3           State under that section in an amount that rea-  
4           sonably reflects the premium contribution made  
5           by the parent for private coverage on behalf of  
6           a child with a disability; and

7           “(II) treat such coverage as a third party  
8           liability under subsection (a)(25).

9           “(B) In the case of a parent to which subparagraph  
10          (A) applies, a State, subject to paragraph (1)(C)(ii), may  
11          provide for payment of any portion of the annual premium  
12          for such family coverage that the parent is required to  
13          pay. Any payments made by the State under this subpara-  
14          graph shall be considered, for purposes of section 1903(a),  
15          to be payments for medical assistance.”.

16          (b) STATE OPTION TO IMPOSE INCOME-RELATED  
17          PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is  
18          amended—

19                 (1) in subsection (a), by striking “subsection  
20                 (g)” and inserting “subsections (g) and (h)”; and

21                 (2) by adding at the end the following new sub-  
22                 section:

23                 “(h)(1) With respect to disabled children provided  
24                 medical assistance under section 1902(a)(10)(A)(ii)(XIX),  
25                 subject to paragraph (2), a State may (in a uniform man-

1 ner for such children) require the families of such children  
2 to pay monthly premiums set on a sliding scale based on  
3 family income.

4 “(2) A premium requirement imposed under para-  
5 graph (1) may only apply to the extent that—

6 “(A) in the case of a disabled child described in  
7 that paragraph whose family income—

8 “(i) does not exceed 200 percent of the  
9 poverty line, the aggregate amount of such pre-  
10 mium and any premium that the parent is re-  
11 quired to pay for family coverage under section  
12 1902(cc)(2)(A)(i) and other cost-sharing  
13 charges do not exceed 5 percent of the family’s  
14 income; and

15 “(ii) exceeds 200, but does not exceed 300,  
16 percent of the poverty line, the aggregate  
17 amount of such premium and any premium that  
18 the parent is required to pay for family cov-  
19 erage under section 1902(cc)(2)(A)(i) and other  
20 cost-sharing charges do not exceed 7.5 percent  
21 of the family’s income; and

22 “(B) the requirement is imposed consistent with  
23 section 1902(cc)(2)(A)(ii)(I).

24 “(3) A State shall not require prepayment of a pre-  
25 mium imposed pursuant to paragraph (1) and shall not

1 terminate eligibility of a child under section  
2 1902(a)(10)(A)(ii)(XIX) for medical assistance under this  
3 title on the basis of failure to pay any such premium until  
4 such failure continues for a period of at least 60 days from  
5 the date on which the premium became past due. The  
6 State may waive payment of any such premium in any  
7 case where the State determines that requiring such pay-  
8 ment would create an undue hardship.”.

9 (c) CONFORMING AMENDMENTS.—(1) Section  
10 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the  
11 matter preceding subparagraph (A), by inserting  
12 “1902(a)(10)(A)(ii)(XIX),” after  
13 “1902(a)(10)(A)(ii)(XVIII),”.

14 (2) Section 1905(u)(2)(B) (42 U.S.C.  
15 1396d(u)(2)(B)) is amended by adding at the end the fol-  
16 lowing sentence: “Such term excludes any child eligible for  
17 medical assistance only by reason of section  
18 1902(a)(10)(A)(ii)(XIX).”.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to medical assistance for items and  
21 services furnished on or after January 1, 2008.

1 **SEC. 6043. DEMONSTRATION PROJECTS REGARDING HOME**  
2 **AND COMMUNITY-BASED ALTERNATIVES TO**  
3 **PSYCHIATRIC RESIDENTIAL TREATMENT FA-**  
4 **CILITIES FOR CHILDREN.**

5 (a) IN GENERAL.—The Secretary is authorized to  
6 conduct, during each of fiscal years 2007 through 2011,  
7 demonstration projects (each in the section referred to as  
8 a “demonstration project”) in accordance with this section  
9 under which up to 10 States (as defined for purposes of  
10 title XIX of the Social Security Act) are awarded grants,  
11 on a competitive basis, to test the effectiveness in improv-  
12 ing or maintaining a child’s functional level and cost-effec-  
13 tiveness of providing coverage of home and community-  
14 based alternatives to psychiatric residential treatment for  
15 children enrolled in the Medicaid program under title XIX  
16 of such Act.

17 (b) APPLICATION OF TERMS AND CONDITIONS.—

18 (1) IN GENERAL.—Subject to the provisions of  
19 this section, for the purposes of the demonstration  
20 projects, and only with respect to children enrolled  
21 under such demonstration projects, a psychiatric res-  
22 idential treatment facility (as defined in section  
23 483.352 of title 42 of the Code of Federal Regula-  
24 tions) shall be deemed to be a facility specified in  
25 section 1915(c) of the Social Security Act (42  
26 U.S.C. 1396n(c)), and to be included in each ref-

1       erence in such section 1915(c) to hospitals, nursing  
2       facilities, and intermediate care facilities for the  
3       mentally retarded.

4               (2) STATE OPTION TO ASSURE CONTINUITY OF  
5       MEDICAID COVERAGE.—Upon the termination of a  
6       demonstration project under this section, the State  
7       that conducted the project may elect, only with re-  
8       spect to a child who is enrolled in such project on  
9       the termination date, to continue to provide medical  
10      assistance for coverage of home and community-  
11      based alternatives to psychiatric residential treat-  
12      ment for the child in accordance with section  
13      1915(e) of the Social Security Act (42 U.S.C.  
14      1396n(c)), as modified through the application of  
15      paragraph (1). Expenditures incurred for providing  
16      such medical assistance shall be treated as a home  
17      and community-based waiver program under section  
18      1915(e) of the Social Security Act (42 U.S.C.  
19      1396n(c)) for purposes of payment under section  
20      1903 of such Act (42 U.S.C. 1396b).

21      (c) TERMS OF DEMONSTRATION PROJECTS.—

22               (1) IN GENERAL.—Except as otherwise pro-  
23      vided in this section, a demonstration project shall  
24      be subject to the same terms and conditions as apply  
25      to a waiver under section 1915(c) of the Social Se-

1 security Act (42 U.S.C. 1396n(c)), including the waiv-  
2 er of certain requirements under the first sentence  
3 of paragraph (3) of such section but not applying  
4 the second sentence of such paragraph.

5 (2) BUDGET NEUTRALITY.—In conducting the  
6 demonstration projects under this section, the Sec-  
7 retary shall ensure that the aggregate payments  
8 made by the Secretary under title XIX of the Social  
9 Security Act (42 U.S.C. 1396 et seq.) do not exceed  
10 the amount which the Secretary estimates would  
11 have been paid under that title if the demonstration  
12 projects under this section had not been imple-  
13 mented.

14 (3) EVALUATION.—The application for a dem-  
15 onstration project shall include an assurance to pro-  
16 vide for such interim and final evaluations of the  
17 demonstration project by independent third parties,  
18 and for such interim and final reports to the Sec-  
19 retary, as the Secretary may require.

20 (d) PAYMENTS TO STATES; LIMITATIONS TO SCOPE  
21 AND FUNDING.—

22 (1) IN GENERAL.—Subject to paragraph (2), a  
23 demonstration project approved by the Secretary  
24 under this section shall be treated as a home and  
25 community-based waiver program under section

1 1915(e) of the Social Security Act (42 U.S.C.  
2 1396n(c)) for purposes of payment under section  
3 1903 of such Act (42 U.S.C. 1396b).

4 (2) LIMITATION.—In no case may the amount  
5 of payments made by the Secretary under this sec-  
6 tion for State demonstration projects for a fiscal  
7 year exceed the amount available under subsection  
8 (f)(2)(A) for such fiscal year.

9 (e) SECRETARY'S EVALUATION AND REPORT.—The  
10 Secretary shall conduct an interim and final evaluation of  
11 State demonstration projects under this section and shall  
12 report to the President and Congress the conclusions of  
13 such evaluations within 12 months of completing such  
14 evaluations.

15 (f) FUNDING.—

16 (1) IN GENERAL.—For the purpose of carrying  
17 out this section, there are appropriated, from  
18 amounts in the Treasury not otherwise appropriated,  
19 for fiscal years 2007 through 2011, a total of  
20 \$218,000,000, of which—

21 (A) the amount specified in paragraph (2)  
22 shall be available for each of fiscal years 2007  
23 through 2011; and

1 (B) a total of \$1,000,000 shall be available  
2 to the Secretary for the evaluations and report  
3 under subsection (e).

4 (2) FISCAL YEAR LIMIT.—

5 (A) IN GENERAL.—For purposes of para-  
6 graph (1), the amount specified in this para-  
7 graph for a fiscal year is the amount specified  
8 in subparagraph (B) for the fiscal year plus the  
9 difference, if any, between the total amount  
10 available under this paragraph for prior fiscal  
11 years and the total amount previously expended  
12 under paragraph (1)(A) for such prior fiscal  
13 years.

14 (B) FISCAL YEAR AMOUNTS.—The amount  
15 specified in this subparagraph for—

16 (i) fiscal year 2007 is \$21,000,000;

17 (ii) fiscal year 2008 is \$37,000,000;

18 (iii) fiscal year 2009 is \$49,000,000;

19 (iv) fiscal year 2010 is \$53,000,000;

20 and

21 (v) fiscal year 2011 is \$57,000,000.

22 **SEC. 6044. DEVELOPMENT AND SUPPORT OF FAMILY-TO-**  
23 **FAMILY HEALTH INFORMATION CENTERS.**

24 Section 501 (42 U.S.C. 701) is amended by adding  
25 at the end the following new subsection:

1       “(c)(1)(A) For the purpose of enabling the Secretary  
2 (through grants, contracts, or otherwise) to provide for  
3 special projects of regional and national significance for  
4 the development and support of family-to-family health in-  
5 formation centers described in paragraph (2)—

6           “(i) there is appropriated to the Secretary, out  
7 of any money in the Treasury not otherwise  
8 appropriated—

9           “(I) \$3,000,000 for fiscal year 2007;

10          “(II) \$4,000,000 for fiscal year 2008; and

11          “(III) \$5,000,000 for fiscal year 2009; and

12          “(ii) there is authorized to be appropriated to  
13 the Secretary, \$5,000,000 for each of fiscal years  
14 2010 and 2011.

15          “(B) Funds appropriated or authorized to be appro-  
16 priated under subparagraph (A) shall—

17           “(i) be in addition to amounts appropriated  
18 under subsection (a) and retained under section  
19 502(a)(1) for the purpose of carrying out activities  
20 described in subsection (a)(2); and

21           “(ii) remain available until expended.

22          “(2) The family-to-family health information centers  
23 described in this paragraph are centers that—

24           “(A) assist families of children with disabilities  
25 or special health care needs to make informed

1 choices about health care in order to promote good  
2 treatment decisions, cost-effectiveness, and improved  
3 health outcomes for such children;

4 “(B) provide information regarding the health  
5 care needs of, and resources available for, such chil-  
6 dren;

7 “(C) identify successful health delivery models  
8 for such children;

9 “(D) develop with representatives of health care  
10 providers, managed care organizations, health care  
11 purchasers, and appropriate State agencies, a model  
12 for collaboration between families of such children  
13 and health professionals;

14 “(E) provide training and guidance regarding  
15 caring for such children;

16 “(F) conduct outreach activities to the families  
17 of such children, health professionals, schools, and  
18 other appropriate entities and individuals; and

19 “(G) are staffed—

20 “(i) by such families who have expertise in  
21 Federal and State public and private health  
22 care systems; and

23 “(ii) by health professionals.

1       “(3) The Secretary shall develop family-to-family  
2 health information centers described in paragraph (2) in  
3 accordance with the following:

4           “(A) With respect to fiscal year 2007, such cen-  
5 ters shall be developed in not less than 25 States.

6           “(B) With respect to fiscal year 2008, such  
7 centers shall be developed in not less than 40 States.

8           “(C) With respect to fiscal year 2009 and each  
9 fiscal year thereafter, such centers shall be developed  
10 in all States.

11       “(4) The provisions of this title that are applicable  
12 to the funds made available to the Secretary under section  
13 502(a)(1) apply in the same manner to funds made avail-  
14 able to the Secretary under paragraph (1)(A).

15       “(5) For purposes of this subsection, the term ‘State’  
16 means each of the 50 States and the District of Colum-  
17 bia.”.

18 **SEC. 6045. RESTORATION OF MEDICAID ELIGIBILITY FOR**

19 **CERTAIN SSI BENEFICIARIES.**

20       (a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42  
21 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

22           (1) by inserting “(aa)” after “(II)”;

23           (2) by striking “) and” and inserting “and”;

24           (3) by striking “section or who are” and insert-  
25 ing “section), (bb) who are”; and

1           (4) by inserting before the comma at the end  
 2           the following: “, or (cc) who are under 21 years of  
 3           age and with respect to whom supplemental security  
 4           income benefits would be paid under title XVI if  
 5           subparagraphs (A) and (B) of section 1611(c)(7)  
 6           were applied without regard to the phrase ‘the first  
 7           day of the month following’ ”.

8           (b) **EFFECTIVE DATE.**—The amendments made by  
 9           subsection (a) shall apply to medical assistance for items  
 10          and services furnished on or after the date that is 1 year  
 11          after the date of enactment of this Act.

12           **Subchapter B—State Children’s Health**  
 13                           **Insurance Program**

14          **SEC. 6051. RULES FOR AVAILABILITY, REDISTRIBUTION,**  
 15                           **AND EXTENDED AVAILABILITY OF ALLOT-**  
 16                           **MENTS FOR FISCAL YEARS 2003, 2004, AND**  
 17                           **2005.**

18          (a) **IN GENERAL.**—Section 2104 (42 U.S.C. 1397dd)  
 19          is amended—

20                 (1) by amending subsection (e) to read as fol-  
 21          lows:

22                 “(e) **AVAILABILITY OF AMOUNTS ALLOTTED.**—

23                         “(1) **IN GENERAL.**—Except as provided in para-  
 24                         graph (2), amounts allotted to a State pursuant to  
 25                         this section—

1           “(A) for each of fiscal years 1998 through  
2           2003, and for fiscal year 2006 and each fiscal  
3           year thereafter, shall remain available for ex-  
4           penditure by the State through the end of the  
5           second succeeding fiscal year; and

6           “(B) for each of fiscal years 2004 and  
7           2005, shall remain available for expenditure by  
8           the State during the initial availability period  
9           (as defined in paragraph (3)(A)).

10           “(2) AVAILABILITY OF REALLOTMENTS, REDIS-  
11           TRIBUTED AMOUNTS, AND EXTENDED AVAIL-  
12           ABILITY.—

13           “(A) IN GENERAL.—Amounts reallocated to  
14           a State under subsection (f) shall be available  
15           for expenditure by the State through the end of  
16           the fiscal year in which they are reallocated.

17           “(B) AVAILABILITY OF REDISTRIBUTED  
18           FUNDS AND EXTENDED AVAILABILITY.—  
19           Amounts redistributed to a State under sub-  
20           section (i)(3) or (j)(3) and unused allotments of  
21           a State extended under subsection (i)(4) or  
22           (j)(4) are available for expenditure by the State  
23           during the redistribution/extension period (as  
24           defined in paragraph (3)(B)).

1           “(3) PERIODS DEFINED.—For purposes of this  
2 section:

3           “(A) INITIAL AVAILABILITY PERIOD.—The  
4 term ‘initial availability period’ means, with re-  
5 spect to allotments for a fiscal year, the 2-fiscal  
6 year period beginning with that fiscal year.

7           “(B) REDISTRIBUTION/EXTENSION PE-  
8 RIOD.—The term ‘redistribution/extension pe-  
9 riod’ means, with respect to allotments for a  
10 fiscal year, the second year following that fiscal  
11 year.”; and

12           (2) by adding at the end the following new sub-  
13 sections:

14           “(h) RULE FOR REDISTRIBUTION OF FISCAL YEAR  
15 2003 ALLOTMENTS.—

16           “(1) COMPUTATION OF UNEXPENDED ALLOT-  
17 MENTS FOR FISCAL YEAR 2003.—The Secretary shall  
18 determine—

19           “(A) the amount of each State’s allotment  
20 under this section for fiscal year 2003 that was  
21 not expended by the end of fiscal year 2005;  
22 and

23           “(B) the total of the unexpended allot-  
24 ments determined under subparagraph (A).

1           “(2) DETERMINATION OF INITIAL PROJECTED  
2           SHORTFALLS FOR FISCAL YEAR 2006.—For each  
3           State that receives an allotment for fiscal year 2006  
4           under subsection (b), the Secretary shall determine  
5           the following:

6                   “(A) FISCAL YEAR 2005 CARRYOVER.—The  
7                   amount of the State’s allotment for 2005 that  
8                   was not expended in fiscal year 2005.

9                   “(B) PROJECTED EXPENDITURES FOR FIS-  
10                  CAL YEAR 2006.—The estimated expenditures  
11                  for the State as would be reported as quarterly  
12                  expenditures under section 2105(a) for quarters  
13                  in fiscal year 2006.

14                  “(C) INITIAL PROJECTED SHORTFALL FOR  
15                  FISCAL YEAR 2006.—The amount, if any, by  
16                  which the projected expenditures determined  
17                  under subparagraph (B) for the State for quar-  
18                  ters in fiscal year 2006 exceeds the sum of the  
19                  following:

20                          “(i) FISCAL YEAR 2005 CARRYOVER.—  
21                          The amount determined under subpara-  
22                          graph (A) for the State.

23                          “(ii) FISCAL YEAR 2006 ALLOT-  
24                          MENT.—The amount of the State’s allot-  
25                          ment for fiscal year 2006.

1           “(D) STATE’S PROPORTION OF AGGREGATE  
2           SHORTFALL.—For each State for which there is  
3           an excess determined under subparagraph (C),  
4           the ratio of—

5                     “(i) the amount of such excess; to

6                     “(ii) the total of such excesses deter-  
7                     mined for all States with such an excess.

8           “(3) REDISTRIBUTION OF UNEXPENDED AL-  
9           LOTMENTS FOR FISCAL YEAR 2003.—From the total  
10           of the unexpended allotments for fiscal year 2003  
11           determined under paragraph (1)(B) the Secretary  
12           shall redistribute under subsection (f) the following:

13                   “(A) STATES OTHER THAN TERRI-  
14                   TORIES.—There shall be redistributed to each  
15                   State for which there is an excess determined  
16                   under paragraph (2)(C) an amount equal to the  
17                   product of the following:

18                             “(i) STATE REDISTRIBUTION POOL.—  
19                             The amount determined under paragraph  
20                             (1)(B), reduced by the total amount redis-  
21                             tributed under subparagraph (B).

22                             “(ii) STATE’S SHORTFALL PROPOR-  
23                             TION.—The ratio described in paragraph  
24                             (2)(D) for that State.

1           “(B) TERRITORIES.—There shall be redis-  
 2           tributed to each commonwealth or territory de-  
 3           scribed in subsection (c)(3) an amount equal to  
 4           the product of the following:

5                   “(i) TERRITORIAL REDISTRIBUTION  
 6                   POOL.—1.05 percent of the amount deter-  
 7                   mined under paragraph (1)(B).

8                   “(ii) TERRITORIAL PROPORTION.—  
 9                   The ratio of—

10                           “(I) the allotment for fiscal year  
 11                           2003 for such commonwealth or terri-  
 12                           tory under subsection (c), to

13                           “(II) the total of all such allot-  
 14                           ments for such fiscal year for such  
 15                           commonwealths or territories under  
 16                           such subsection.

17           “(4) DETERMINATION OF AMOUNTS.—For pur-  
 18           poses of calculating the amounts described in—

19                   “(A) paragraphs (1) and (2)(A), the Sec-  
 20                   retary shall use the amounts reported by the  
 21                   States not later than November 30, 2005, on  
 22                   Form CMS-64 or Form CMS-21, as the case  
 23                   may be, as approved by the Secretary; and

24                   “(B) paragraph (2)(B), the Secretary shall  
 25                   use the amounts reported by the States not

1 later than September 30, 2005, on Form CMS-  
2 37 or Form CMS-21B, as the case may be, as  
3 approved by the Secretary.

4 “(i) REDISTRIBUTION AND EXTENSION OF AVAIL-  
5 ABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR  
6 2004.—Notwithstanding subsection (f):

7 “(1) COMPUTATION OF UNEXPENDED ALLOT-  
8 MENTS FOR FISCAL YEAR 2004.—

9 “(A) IN GENERAL.—The Secretary shall  
10 determine with respect to each State that re-  
11 ceives an allotment for fiscal year 2004 under  
12 subsection (b)—

13 “(i) the amount of the State’s allot-  
14 ment for such fiscal year that was not ex-  
15 pended by the end of fiscal year 2005; and

16 “(ii) the total of the unexpended allot-  
17 ments determined under clause (i).

18 “(B) REDUCTION OF UNEXPENDED AL-  
19 LOTMENT BY NET FISCAL YEAR 2006 SHORT-  
20 FALL.—

21 “(i) IN GENERAL.—In the case of a  
22 State described in clause (ii), the Secretary  
23 shall reduce, but not below 0, the amount  
24 determined for the State under subpara-  
25 graph (A)(i) (relating to the State’s unex-

1           pended allotment for fiscal year 2004) by  
2           the amount of the allotment of the State  
3           for which availability is extended under  
4           paragraph (4)(A).

5           “(ii) STATE DESCRIBED.—A State de-  
6           scribed in this clause is a State that meets  
7           the following requirements:

8                   “(I) FULLY SPENT FISCAL YEAR  
9                   2003 ALLOTMENT.—The State’s allot-  
10                  ment under this section for fiscal year  
11                  2003 was fully expended by the end of  
12                  fiscal year 2005.

13                  “(II) DID NOT FULLY EXPEND  
14                  FISCAL YEAR 2004 ALLOTMENT BY  
15                  END OF FISCAL YEAR 2005.—The  
16                  State’s allotment under this section  
17                  for fiscal year 2004 was not fully ex-  
18                  pended by the end of fiscal year 2005.

19                  “(III) PROJECTED FISCAL YEAR  
20                  2006 SHORTFALL.—The State has an  
21                  excess determined under subsection  
22                  (h)(2)(C) (relating to initial projected  
23                  fiscal year 2006 shortfall).

24                  “(C) TOTALS AND RATIOS.—The Secretary  
25                  shall determine the following:

1           “(i) REDISTRIBUTION POOL.—A redis-  
 2           tribution pool equal to the total of the  
 3           amounts determined under subparagraph  
 4           (A)(i), as reduced (if applicable) under  
 5           subparagraph (B)(i).

6           “(ii) STATE PROPORTION TOWARD RE-  
 7           DISTRIBUTION POOL.—For each State in  
 8           which the amount determined under sub-  
 9           paragraph (A)(i) (as reduced, if applicable,  
 10          under subparagraph (B)(i)) exceeds 0, the  
 11          ratio of—

12                   “(I) such amount (as so reduced)  
 13                   for the State; to

14                   “(II) the total determined under  
 15                   clause (i).

16          “(D) AMOUNT OF UNEXPENDED FISCAL  
 17          YEAR 2004 ALLOTMENT APPLIED TO REDIS-  
 18          TRIBUTIONS.—For each State described in sub-  
 19          paragraph (C)(ii), the Secretary shall determine  
 20          a redistribution/reduction amount equal to the  
 21          product of the following:

22                   “(i) TOTAL AMOUNT REDISTRIB-  
 23                   UTED.—The total amount redistributed  
 24                   under paragraph (3).

1                   “(ii) STATE’S PROPORTION OF UNEX-  
2                   PENDED ALLOTMENTS.—The ratio for the  
3                   State determined under subparagraph  
4                   (C)(ii).

5                   “(2) DETERMINATION OF NET PROJECTED  
6                   SHORTFALLS FOR FISCAL YEAR 2006.—For each  
7                   State that has an excess determined under sub-  
8                   section (h)(2)(C) (relating to initial projected fiscal  
9                   year 2006 shortfall), the Secretary shall determine  
10                  an amount equal to the amount determined under  
11                  such subsection, reduced by the sum of—

12                   “(A) the amount redistributed to the State  
13                   under subsection (h)(3)(A), and

14                   “(B) the amount of funds of the State for  
15                   which availability is extended under paragraph  
16                   (4)(A).

17                   “(3) REDISTRIBUTION FROM REDISTRIBUTION  
18                   POOL.—From the redistribution pool determined  
19                   under paragraph (1)(C)(i)—

20                   “(A) STATES OTHER THAN TERRI-  
21                   TORIES.—There shall be redistributed to each  
22                   State which has a net projected shortfall under  
23                   paragraph (2) an amount determined under  
24                   such paragraph for the State.

1           “(B) TERRITORIES.—There shall be redis-  
 2           tributed to each commonwealth or territory de-  
 3           scribed in subsection (c)(3) an amount equal to  
 4           the product of the following:

5                   “(i) TERRITORIAL REDISTRIBUTION  
 6                   POOL.—1.05 percent of the amount of  
 7                   such unexpended allotments determined  
 8                   under paragraph (1)(A)(ii).

9                   “(ii) TERRITORIAL PROPORTION.—  
 10                  The ratio of—

11                           “(I) the allotment under sub-  
 12                           section (c) for such commonwealth or  
 13                           territory for fiscal year 2004, to

14                                   “(II) the total of all such allot-  
 15                                   ments for such commonwealths and  
 16                                   territories.

17                  “(4) EXTENDED AVAILABILITY OF REMAINING  
 18                  UNEXPENDED ALLOTMENTS.—

19                           “(A) TO MEET NET SHORTFALL FOR FIS-  
 20                           CAL YEAR 2006.—In the case of a State de-  
 21                           scribed in paragraph (1)(B)(ii), the Secretary  
 22                           shall extend the availability of funds from the  
 23                           State’s allotment for fiscal year 2004 to the ex-  
 24                           tent that—

1           “(i) the amount determined under  
2           subsection (h)(2)(C) (relating to initial  
3           shortfall for fiscal year 2006), exceeds

4           “(ii) the amount redistributed to the  
5           State under subsection (h)(3)(A).

6           “(B) OTHER EXTENSIONS.—The Secretary  
7           shall extend the availability of funds from allot-  
8           ments for fiscal year 2004 for each State which  
9           has an unexpended allotment for fiscal year  
10          2004 determined under paragraph (1)(A) (as  
11          reduced, if applicable, under paragraph (1)(B))  
12          by an amount equal to the amount (if any) by  
13          which—

14           “(i) the amount of such unexpended  
15           allotment (as so reduced) for the State, ex-  
16           ceeds

17           “(ii) the redistribution/reduction  
18           amount determined under paragraph  
19           (1)(D) for the State (relating to the por-  
20           tion of the unexpended allotment applied  
21           to redistributions).

22          “(5) DETERMINATION OF AMOUNTS.—For pur-  
23          poses of calculating the amounts described in—

24           “(A) paragraph (1)(A)(i), the Secretary  
25           shall use the amounts reported by the States

1 not later than November 30, 2005, on Form  
 2 CMS-64 or Form CMS-21, as the case may be,  
 3 as approved by the Secretary; and

4 “(B) paragraph (1)(B)(i), the Secretary  
 5 shall use the amounts reported by the States  
 6 not later than September 30, 2005, on Form  
 7 CMS-37 or Form CMS-21B, as the case may  
 8 be, as approved by the Secretary.

9 “(j) REDISTRIBUTION AND EXTENSION OF AVAIL-  
 10 ABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR  
 11 2005.—Notwithstanding subsection (f):

12 “(1) COMPUTATION OF UNEXPENDED ALLOT-  
 13 MENTS FOR FISCAL YEAR 2005.—

14 “(A) IN GENERAL.—The Secretary shall  
 15 determine with respect to each State that re-  
 16 ceives an allotment for fiscal year 2005 under  
 17 subsection (b)—

18 “(i) the amount of the State’s allot-  
 19 ment for fiscal year 2005 that was not ex-  
 20 pended by the end of fiscal year 2006; and

21 “(ii) the total of the unexpended allot-  
 22 ments determined under clause (i).

23 “(B) REDUCTION OF UNEXPENDED AL-  
 24 LOTMENT BY NET FISCAL YEAR 2007 SHORT-  
 25 FALL.—

1           “(i) IN GENERAL.—In the case of a  
2 State described in clause (ii), the Secretary  
3 shall reduce, but not below 0, the amount  
4 determined for the State under subpara-  
5 graph (A)(i) (relating to the State’s unex-  
6 pended allotment for fiscal year 2005) by  
7 the amount of the allotment of the State  
8 for which availability is extended under  
9 paragraph (4)(A).

10           “(ii) STATE DESCRIBED.—A State de-  
11 scribed in this clause is a State that meets  
12 the following requirements:

13           “(I) DID NOT FULLY EXPEND  
14 FISCAL YEAR 2005 ALLOTMENT BY  
15 END OF FISCAL YEAR 2006.—The  
16 State’s allotment under this section  
17 for fiscal year 2005 was not fully ex-  
18 pended by the end of fiscal year 2006.

19           “(II) PROJECTED SHORTFALL  
20 FOR FISCAL YEAR 2007.—The State  
21 has an excess determined under para-  
22 graph (2)(C) for fiscal year 2007 (re-  
23 lating to initial projected fiscal year  
24 2007 shortfall).

1           “(C) TOTALS AND RATIOS.—The Secretary  
2 shall determine the following:

3           “(i) REDISTRIBUTION POOL.—A redis-  
4 tribution pool equal to the total of the  
5 amounts determined under subparagraph  
6 (A)(i), as reduced (if applicable) under  
7 subparagraph (B)(i).

8           “(ii) STATE PROPORTION TOWARD RE-  
9 DISTRIBUTION POOL.—For each State in  
10 which the amount determined under sub-  
11 paragraph (A)(i) (as reduced, if applicable,  
12 under subparagraph (B)(i)) exceeds 0, the  
13 ratio of—

14                   “(I) such amount (as so reduced)  
15                   for the State; to

16                   “(II) the total determined under  
17                   clause (i).

18           “(D) AMOUNT OF UNEXPENDED FISCAL  
19 YEAR 2005 ALLOTMENT APPLIED TO REDIS-  
20 TRIBUTIONS.—For each State described in sub-  
21 paragraph (C)(ii), the Secretary shall determine  
22 a redistribution/reduction amount equal to the  
23 product of the following:

1                   “(i) TOTAL AMOUNT REDISTRIB-  
2                   UTED.—The total amount redistributed  
3                   under paragraph (3).

4                   “(ii) STATE’S PROPORTION OF UNEX-  
5                   PENDED ALLOTMENTS.—The ratio for the  
6                   State determined under subparagraph  
7                   (C)(ii).

8                   “(2) DETERMINATION OF INITIAL PROJECTED  
9                   SHORTFALLS FOR FISCAL YEAR 2007.—For each  
10                  State that receives an allotment for fiscal year 2007  
11                  under subsection (b), the Secretary shall determine  
12                  the following:

13                  “(A) FISCAL YEAR 2006 CARRYOVER.—The  
14                  amount of the State’s allotment for fiscal year  
15                  2006 that was not expended in fiscal year 2006.

16                  “(B) PROJECTED EXPENDITURES FOR FIS-  
17                  CAL YEAR 2007.—The estimated expenditures  
18                  for the State as would be reported as quarterly  
19                  expenditures under section 2105(a) for quarters  
20                  in fiscal year 2007.

21                  “(C) INITIAL PROJECTED SHORTFALL FOR  
22                  FISCAL YEAR 2007.—The amount, if any, by  
23                  which the projected expenditures determined  
24                  under subparagraph (B) for the State for quar-

1           ters in fiscal year 2007 exceeds the sum of the  
2           following:

3                   “(i) FISCAL YEAR 2006 CARRYOVER.—

4                   The amount determined under subpara-  
5                   graph (A) for the State.

6                   “(ii) FISCAL YEAR 2007 ALLOT-

7                   MENT.—The amount of the State’s allot-  
8                   ment for fiscal year 2007.

9                   “(D) DETERMINATION OF NET PROJECTED

10                  SHORTFALLS FOR FISCAL YEAR 2007.—For each

11                  State that has an excess determined under sub-

12                  paragraph (C), the Secretary shall determine an

13                  amount equal to the amount determined under

14                  such subparagraph, reduced by the amount of

15                  funds (if any) of the State for which availability

16                  is extended under paragraph (4)(A).

17                  “(E) STATE’S PROPORTION OF NET AG-

18                  GREGATE SHORTFALL.—For each State for

19                  which there is a net excess determined under

20                  subparagraph (D), the ratio of—

21                   “(i) the amount of such net excess; to

22                   “(ii) the total of such net excesses.

23                  “(3) REDISTRIBUTION FROM REDISTRIBUTION

24                  POOL.—From the redistribution pool determined

25                  under paragraph (1)(C)(i)—

1           “(A) STATES OTHER THAN TERRI-  
 2           TORIES.—There shall be redistributed to each  
 3           State for which there is a net projected short-  
 4           fall under paragraph (2)(D) an amount equal  
 5           the lesser of the following:

6                   “(i) NET FISCAL YEAR 2007 SHORT-  
 7                   FALL.—The amount of the net excess de-  
 8                   scribed in paragraph (2)(D) for the State.

9                   “(ii) PORTION OF UNEXPENDED  
 10                  FUNDS AVAILABLE.—The product of the  
 11                  following:

12                           “(I) STATE REDISTRIBUTION  
 13                           POOL.—The amount determined  
 14                           under paragraph (1)(C)(i), reduced by  
 15                           the total amount redistributed under  
 16                           subparagraph (B).

17                           “(II) STATE’S SHORTFALL PRO-  
 18                           PORTION.—The ratio described in  
 19                           paragraph (2)(E) for that State.

20           “(B) TERRITORIES.—There shall be redis-  
 21           tributed to each commonwealth or territory de-  
 22           scribed in subsection (c)(3) an amount equal to  
 23           the product of the following:

24                   “(i) TERRITORIAL REDISTRIBUTION  
 25                   POOL.—1.05 percent of the total amount

1 of unexpended allotments determined  
2 under paragraph (1)(A)(ii).

3 “(ii) TERRITORIAL PROPORTION.—

4 The ratio of—

5 “(I) the allotment under sub-  
6 section (c) for such commonwealth or  
7 territory for fiscal year 2005, to

8 “(II) the total of all such allot-  
9 ments for such commonwealths and  
10 territories.

11 “(4) EXTENDED AVAILABILITY OF REMAINING  
12 UNEXPENDED ALLOTMENTS.—

13 “(A) TO MEET INITIAL PROJECTED  
14 SHORTFALL FOR FISCAL YEAR 2007.—In the  
15 case of a State that is described in paragraph  
16 (1)(B)(ii), the Secretary shall extend the avail-  
17 ability of funds from the State’s allotment for  
18 fiscal year 2005 to the extent of the amount de-  
19 scribed in paragraph (2)(C).

20 “(B) OTHER EXTENSIONS.—If the redis-  
21 tribution pool amount determined under para-  
22 graph (1)(C)(i) exceeds the total amount redis-  
23 tributed under paragraph (3), the Secretary  
24 shall extend the availability of funds from allot-  
25 ments for fiscal year 2005 for each State which

1 has an unexpended allotment for that fiscal  
2 year determined under paragraph (1)(A) (as re-  
3 duced, if applicable, under paragraph (1)(B))  
4 by an amount equal to the amount (if any) by  
5 which—

6 “(i) the amount of the unexpended al-  
7 lotment (as so reduced) for the State, ex-  
8 ceeds

9 “(ii) the redistribution/reduction  
10 amount determined under paragraph  
11 (1)(D) for the State (relating to the por-  
12 tion of the unexpended allotment applied  
13 to redistributions).

14 “(5) DETERMINATION OF AMOUNTS.—For pur-  
15 poses of calculating the amounts described in—

16 “(A) paragraph (1)(A), the Secretary shall  
17 use the amounts reported by the States not  
18 later than November 30, 2006, on Form CMS-  
19 64 or Form CMS-21, as the case may be, as  
20 approved by the Secretary; or

21 “(B) paragraph (2), the Secretary shall  
22 use the amounts reported by the States not  
23 later than September 30, 2006, on Form CMS-  
24 37 or Form CMS-21B, as the case may be, as  
25 approved by the Secretary.”.

1 (b) USE OF REDISTRIBUTED FUNDS FOR CHILD  
 2 HEALTH ASSISTANCE FOR TARGETED LOW-INCOME  
 3 CHILDREN.—Section 2105(a) (42 U.S.C. 1397ee(a)) is  
 4 amended—

5 (1) in paragraph (1), in the matter preceding  
 6 subparagraph (A), by inserting “or paragraph (3)”  
 7 after “subparagraph (B)”; and

8 (2) by adding at the end the following:

9 “(3) USE OF REDISTRIBUTED FUNDS FOR  
 10 CHILD HEALTH ASSISTANCE FOR TARGETED LOW-IN-  
 11 COME CHILDREN.—For purposes of paragraph (1),  
 12 the expenditures described in this paragraph are ex-  
 13 penditures that are not expenditures for child health  
 14 assistance for targeted low-income children, but only  
 15 if such expenditures are from any amounts redistrib-  
 16 uted under subparagraphs (A) or (B) of subsection  
 17 (h)(3), (i)(3), or (j)(3) of section 2104.”.

18 **SEC. 6052. AUTHORITY TO USE UP TO 10 PERCENT OF FIS-**  
 19 **CAL YEAR 2006 AND 2007 ALLOTMENTS FOR**  
 20 **OUTREACH.**

21 Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is  
 22 amended by adding at the end the following:

23 “(C) USE OF UP TO 10 PERCENT OF 2006  
 24 AND 2007 ALLOTMENTS FOR OUTREACH ACTIVI-  
 25 TIES.—Notwithstanding subparagraph (A), a

1 State may use up to 10 percent of the allotment  
 2 for the State for fiscal year 2006 and for fiscal  
 3 year 2007 for expenditures incurred during the  
 4 respective fiscal year for outreach activities as  
 5 provided in section 2102(c)(1) under the plan.”.

6 **SEC. 6053. PROHIBITION AGAINST COVERING NONPREG-**  
 7 **NANT CHILDLESS ADULTS WITH SCHIP**  
 8 **FUNDS.**

9 (a) PROHIBITION ON USE OF SCHIP FUNDS.—Sec-  
 10 tion 2107 (42 U.S.C. 1397gg) is amended by adding at  
 11 the end the following:

12 “(f) LIMITATION OF WAIVER AUTHORITY.—Notwith-  
 13 standing subsection (e)(2)(A) and section 1115(a), on and  
 14 after the date of enactment of this subsection, the Sec-  
 15 retary may not approve a waiver, experimental, pilot, or  
 16 demonstration project that would allow funds made avail-  
 17 able under this title to be used to provide child health as-  
 18 sistance or other health benefits coverage to a nonpreg-  
 19 nant childless adult. For purposes of the preceding sen-  
 20 tence, a caretaker relative (as such term is defined for pur-  
 21 poses of carrying out section 1931) shall not be considered  
 22 a childless adult.”.

23 (b) CONFORMING AMENDMENTS.—Section  
 24 2105(c)(1) (42 U.S.C. 1397ee(c)(1)) is amended—

1           (1) by inserting “and may not include coverage  
2 of a nonpregnant childless adult” after “section  
3 2101”); and

4           (2) by adding at the end the following: “For  
5 purposes of the preceding sentence, a caretaker rel-  
6 ative (as such term is defined for purposes of car-  
7 rying out section 1931) shall not be considered a  
8 childless adult.”.

9           (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
10 tion or the amendments made by this section shall be con-  
11 strued to—

12           (1) authorize the waiver of any provision of title  
13 XIX or XXI of the Social Security Act (42 U.S.C.  
14 1396 et seq., 1397aa et seq.) that is not otherwise  
15 authorized to be waived under such titles or under  
16 title XI of such Act (42 U.S.C. 1301 et seq.) as of  
17 the date of enactment of this Act;

18           (2) imply congressional approval of any waiver,  
19 experimental, pilot, or demonstration project affect-  
20 ing funds made available under the State children’s  
21 health insurance program under title XXI of the So-  
22 cial Security Act (42 U.S.C. 1397aa et. seq.) or any  
23 amendment to such a waiver or project that has  
24 been approved as of such date of enactment; or

1           (3) apply to any waiver, experimental, pilot, or  
2 demonstration project that would allow funds made  
3 available under title XXI of the Social Security Act  
4 (42 U.S.C. 1397aa et seq.) to be used to provide  
5 child health assistance or other health benefits cov-  
6 erage to a nonpregnant childless adult that is ap-  
7 proved before the date of enactment of this Act or  
8 to any extension, renewal, or amendment of such a  
9 waiver or project that is approved on or after such  
10 date of enactment.

11 **SEC. 6054. CONTINUED AUTHORITY FOR QUALIFYING**  
12 **STATES TO USE CERTAIN FUNDS FOR MED-**  
13 **ICAID EXPENDITURES.**

14           (a) IN GENERAL.—Section 2105(g)(1)(A) (42 U.S.C.  
15 1397ee(g)(1)(A)) is amended by striking “or 2001” and  
16 inserting “2001, 2004, or 2005”.

17           (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply to expenditures made under title  
19 XIX of the Social Security Act (42 U.S.C. 1396 et seq.)  
20 on or after October 1, 2005.

21 **SEC. 6055. GRANTS TO PROMOTE INNOVATIVE OUTREACH**  
22 **AND ENROLLMENT UNDER MEDICAID AND**  
23 **SCHIP.**

24           Title XXI (42 U.S.C. 1397aa et seq.) is amended by  
25 adding at the end the following:

1 **“SEC. 2111. EXPANDED OUTREACH ACTIVITIES.**

2 “(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH  
3 AND ENROLLMENT EFFORTS.—

4 “(1) IN GENERAL.—The Secretary shall award  
5 grants to eligible entities to—

6 “(A) conduct innovative outreach and en-  
7 rollment efforts that are designed to increase  
8 the enrollment and participation of eligible chil-  
9 dren under this title and title XIX; and

10 “(B) promote understanding of the impor-  
11 tance of health insurance coverage for prenatal  
12 care and children.

13 “(2) PERFORMANCE BONUSES.—The Secretary  
14 may reserve a portion of the funds appropriated  
15 under subsection (g) for a fiscal year for the purpose  
16 of awarding performance bonuses during the suc-  
17 ceeding fiscal year to eligible entities that meet en-  
18 rollment goals or other criteria established by the  
19 Secretary.

20 “(b) PRIORITY FOR AWARD OF GRANTS.—

21 “(1) IN GENERAL.—In making grants under  
22 subsection (a)(1), the Secretary shall give priority  
23 to—

24 “(A) eligible entities that propose to target  
25 geographic areas with high rates of—

1           “(i) eligible but unenrolled children,  
2           including such children who reside in rural  
3           areas; or

4           “(ii) racial and ethnic minorities and  
5           health disparity populations, including  
6           those proposals that address cultural and  
7           linguistic barriers to enrollment; and

8           “(B) eligible entities that plan to engage in  
9           outreach efforts with respect to individuals de-  
10          scribed in subparagraph (A) and that are—

11           “(i) Federal health safety net organi-  
12          zations; or

13           “(ii) faith-based organizations or con-  
14          sortia.

15           “(2) 10 PERCENT SET ASIDE FOR OUTREACH  
16          TO INDIAN CHILDREN.—An amount equal to 10 per-  
17          cent of the funds appropriated under subsection (g)  
18          for a fiscal year shall be used by the Secretary to  
19          award grants to Indian Health Service providers and  
20          urban Indian organizations receiving funds under  
21          title V of the Indian Health Care Improvement Act  
22          (25 U.S.C. 1651 et seq.) for outreach to, and enroll-  
23          ment of, children who are Indians.

24           “(c) APPLICATION.—An eligible entity that desires to  
25          receive a grant under subsection (a)(1) shall submit an

1 application to the Secretary in such form and manner, and  
2 containing such information, as the Secretary may decide.

3 Such application shall include—

4           “(1) quality and outcomes performance meas-  
5           ures to evaluate the effectiveness of activities funded  
6           by a grant awarded under this section to ensure that  
7           the activities are meeting their goals; and

8           “(2) an assurance that the entity shall—

9                   “(A) conduct an assessment of the effec-  
10                  tiveness of such activities against such perform-  
11                  ance measures; and

12                   “(B) cooperate with the collection and re-  
13                  porting of enrollment data and other informa-  
14                  tion determined as a result of conducting such  
15                  assessments to the Secretary, in such form and  
16                  manner as the Secretary shall require.

17           “(d) DISSEMINATION OF ENROLLMENT DATA AND  
18           INFORMATION DETERMINED FROM EFFECTIVENESS AS-  
19           SESSMENTS; ANNUAL REPORT.—The Secretary shall—

20                   “(1) disseminate to eligible entities and make  
21                  publicly available the enrollment data and informa-  
22                  tion collected and reported in accordance with sub-  
23                  section (c)(2)(B); and

1           “(2) submit an annual report to Congress on  
2           the outreach activities funded by grants awarded  
3           under this section.

4           “(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds  
5           awarded under this section shall be used to supplement,  
6           not supplant, non-Federal funds that are otherwise avail-  
7           able for activities funded under this section.

8           “(f) DEFINITIONS.—In this section:

9           “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
10          tity’ means any of the following:

11                   “(A) A State or local government.

12                   “(B) A Federal health safety net organiza-  
13          tion.

14                   “(C) A national, local, or community-based  
15          public or nonprofit private organization.

16                   “(D) A faith-based organization or con-  
17          sortia, to the extent that a grant awarded to  
18          such an entity is consistent with the require-  
19          ments of section 1955 of the Public Health  
20          Service Act (42 U.S.C. 300x-65) relating to a  
21          grant award to non-governmental entities.

22                   “(E) An elementary or secondary school.

23           “(2) FEDERAL HEALTH SAFETY NET ORGANI-  
24          ZATION.—The term ‘Federal health safety net orga-  
25          nization’ means—

1           “(A) an Indian tribe, tribal organization,  
2 or an urban Indian organization receiving funds  
3 under title V of the Indian Health Care Im-  
4 provement Act (25 U.S.C. 1651 et seq.), or an  
5 Indian Health Service provider;

6           “(B) a Federally-qualified health center  
7 (as defined in section 1905(l)(2)(B));

8           “(C) a hospital defined as a dispropor-  
9 tionate share hospital for purposes of section  
10 1923;

11           “(D) a covered entity described in section  
12 340B(a)(4) of the Public Health Service Act  
13 (42 U.S.C. 256b(a)(4)); and

14           “(E) any other entity or a consortium that  
15 serves children under a federally-funded pro-  
16 gram, including the special supplemental nutri-  
17 tion program for women, infants, and children  
18 (WIC) established under section 17 of the Child  
19 Nutrition Act of 1966 (42 U.S.C. 1786), the  
20 head start and early head start programs under  
21 the Head Start Act (42 U.S.C. 9801 et seq.),  
22 the school lunch program established under the  
23 Richard B. Russell National School Lunch Act,  
24 and an elementary or secondary school.

1           “(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANI-  
 2           ZATION; URBAN INDIAN ORGANIZATION.—The terms  
 3           ‘Indian’, ‘Indian tribe’, ‘tribal organization’, and  
 4           ‘urban Indian organization’ have the meanings given  
 5           such terms in section 4 of the Indian Health Care  
 6           Improvement Act (25 U.S.C. 1603).

7           “(g) APPROPRIATION.—There is appropriated, out of  
 8           any money in the Treasury not otherwise appropriated,  
 9           \$25,000,000 for fiscal year 2007 for the purpose of  
 10          awarding grants under this section. Amounts appropriated  
 11          and paid under the authority of this section shall—

12           “(1) be in addition to amounts appropriated  
 13          under section 2104 and paid to States in accordance  
 14          with section 2105; and

15           “(2) not be subject to the limitation on expendi-  
 16          tures described in section 2105(c)(2)(A).”.

17          **Subchapter C—Money Follows the Person**  
 18                           **Rebalancing Demonstration**

19          **SEC. 6061. MONEY FOLLOWS THE PERSON REBALANCING**  
 20                           **DEMONSTRATION.**

21          (a) PROGRAM PURPOSE AND AUTHORITY.—The Sec-  
 22          retary is authorized to award, on a competitive basis,  
 23          grants to States in accordance with this section for dem-  
 24          onstration projects (each in this section referred to as an  
 25          “MFP demonstration project”) designed to achieve the

1 following objectives with respect to institutional and home  
2 and community-based long-term care services under State  
3 Medicaid programs:

4           (1) REBALANCING.—Increase the use of home  
5           and community-based, rather than institutional,  
6           long-term care services.

7           (2) MONEY FOLLOWS THE PERSON.—Eliminate  
8           barriers or mechanisms, whether in the State law,  
9           the State Medicaid plan, the State budget, or other-  
10          wise, that prevent or restrict the flexible use of Med-  
11          icaid funds to enable Medicaid-eligible individuals to  
12          receive support for appropriate and necessary long-  
13          term services in the settings of their choice.

14          (3) CONTINUITY OF SERVICE.—Increase the  
15          ability of the State Medicaid program to assure con-  
16          tinued provision of home and community-based long-  
17          term care services to eligible individuals who choose  
18          to transition from an institutional to a community  
19          setting.

20          (4) QUALITY ASSURANCE AND QUALITY IM-  
21          PROVEMENT.—Ensure that procedures are in place  
22          (at least comparable to those required under the  
23          qualified HCB program) to provide quality assur-  
24          ance for eligible individuals receiving Medicaid home  
25          and community-based long-term care services and to

1 provide for continuous quality improvement in such  
2 services.

3 (b) DEFINITIONS.—For purposes of this section:

4 (1) HOME AND COMMUNITY-BASED LONG-TERM  
5 CARE SERVICES.—The term “home and community-  
6 based long-term care services” means, with respect  
7 to a State Medicaid program, home and community-  
8 based services (including home health and personal  
9 care services) that are provided under the State’s  
10 qualified HCB program or that could be provided  
11 under such a program but are otherwise provided  
12 under the Medicaid program.

13 (2) ELIGIBLE INDIVIDUAL.—The term “eligible  
14 individual” means, with respect to an MFP dem-  
15 onstration project of a State, an individual in the  
16 State—

17 (A) who, immediately before beginning  
18 participation in the MFP demonstration  
19 project—

20 (i) resides (and has resided, for a pe-  
21 riod of not less than 6 months or for such  
22 longer minimum period, not to exceed 2  
23 years, as may be specified by the State) in  
24 an inpatient facility;

1 (ii) is receiving Medicaid benefits for  
2 inpatient services furnished by such inpa-  
3 tient facility; and

4 (iii) with respect to whom a deter-  
5 mination has been made that, but for the  
6 provision of home and community-based  
7 long-term care services, the individual  
8 would continue to require the level of care  
9 provided in an inpatient facility; and

10 (B) who resides in a qualified residence be-  
11 ginning on the initial date of participation in  
12 the demonstration project.

13 (3) INPATIENT FACILITY.—The term “inpatient  
14 facility” means a hospital, nursing facility, or inter-  
15 mediate care facility for the mentally retarded. Such  
16 term includes an institution for mental diseases, but  
17 only, with respect to a State, to the extent medical  
18 assistance is available under the State Medicaid plan  
19 for services provided by such institution.

20 (4) MEDICAID.—The term “Medicaid” means,  
21 with respect to a State, the State program under  
22 title XIX of the Social Security Act (including any  
23 waiver or demonstration under such title or under  
24 section 1115 of such Act relating to such title).

1           (5) QUALIFIED HCB PROGRAM.—The term  
2 “qualified HCB program” means a program pro-  
3 viding home and community-based long-term care  
4 services operating under Medicaid, whether or not  
5 operating under waiver authority.

6           (6) QUALIFIED RESIDENCE.—The term “quali-  
7 fied residence” means, with respect to an eligible  
8 individual—

9           (A) a home owned or leased by the indi-  
10 vidual or the individual’s family member;

11           (B) an apartment with an individual lease,  
12 with lockable access and egress, and which in-  
13 cludes living, sleeping, bathing, and cooking  
14 areas over which the individual or the individ-  
15 ual’s family has domain and control; and

16           (C) a residence, in a community-based res-  
17 idential setting, in which no more than 4 unre-  
18 lated individuals reside.

19           (7) QUALIFIED EXPENDITURES.—The term  
20 “qualified expenditures” means expenditures by the  
21 State under its MFP demonstration project for  
22 home and community-based long-term care services  
23 for an eligible individual participating in the MFP  
24 demonstration project, but only with respect to serv-  
25 ices furnished during the 12-month period beginning

1 on the date the individual is discharged from an in-  
2 patient facility referred to in paragraph (2)(A)(i).

3 (8) SELF-DIRECTED SERVICES.—The term  
4 “self-directed” means, with respect to home and  
5 community-based long-term care services for an eli-  
6 gible individual, such services for the individual  
7 which are planned and purchased under the direc-  
8 tion and control of such individual or the individ-  
9 ual’s authorized representative (as defined by the  
10 Secretary), including the amount, duration, scope,  
11 provider, and location of such services, under the  
12 State Medicaid program consistent with the fol-  
13 lowing requirements:

14 (A) ASSESSMENT.—There is an assess-  
15 ment of the needs, capabilities, and preferences  
16 of the individual with respect to such services.

17 (B) SERVICE PLAN.—Based on such as-  
18 sessment, there is developed jointly with such  
19 individual or the individual’s authorized rep-  
20 resentative a plan for such services for such in-  
21 dividual that is approved by the State and  
22 that—

23 (i) specifies those services, if any,  
24 which the individual or the individual’s au-

1           thorized representative would be respon-  
2           sible for directing;

3           (ii) identifies the methods by which  
4           the individual or the individual's author-  
5           ized representative or an agency designated  
6           by an individual or representative will se-  
7           lect, manage, and dismiss providers of such  
8           services;

9           (iii) specifies the role of family mem-  
10          bers and others whose participation is  
11          sought by the individual or the individual's  
12          authorized representative with respect to  
13          such services;

14          (iv) is developed through a person-  
15          centered process that—

16               (I) is directed by the individual  
17               or the individual's authorized rep-  
18               resentative;

19               (II) builds upon the individual's  
20               capacity to engage in activities that  
21               promote community life and that re-  
22               spects the individual's preferences,  
23               choices, and abilities; and

24               (III) involves families, friends,  
25               and professionals as desired or re-

1                   quired by the individual or the indi-  
2                   vidual's authorized representative;

3                   (v) includes appropriate risk manage-  
4                   ment techniques that recognize the roles  
5                   and sharing of responsibilities in obtaining  
6                   services in a self-directed manner and as-  
7                   sure the appropriateness of such plan  
8                   based upon the resources and capabilities  
9                   of the individual or the individual's author-  
10                  ized representative; and

11                  (vi) may include an individualized  
12                  budget which identifies the dollar value of  
13                  the services and supports under the control  
14                  and direction of the individual or the indi-  
15                  vidual's authorized representative.

16                  (C) BUDGET PROCESS.—With respect to  
17                  individualized budgets described in subpara-  
18                  graph (B)(vi), the State application under sub-  
19                  section (c)—

20                  (i) describes the method for calcu-  
21                  lating the dollar values in such budgets  
22                  based on reliable costs and service utiliza-  
23                  tion;

24                  (ii) defines a process for making ad-  
25                  justments in such dollar values to reflect

1 changes in individual assessments and  
2 service plans; and

3 (iii) provides a procedure to evaluate  
4 expenditures under such budgets.

5 (9) STATE.—The term “State” has the mean-  
6 ing given such term for purposes of title XIX of the  
7 Social Security Act.

8 (c) STATE APPLICATION.—A State seeking approval  
9 of an MFP demonstration project shall submit to the Sec-  
10 retary, at such time and in such format as the Secretary  
11 requires, an application meeting the following require-  
12 ments and containing such additional information, provi-  
13 sions, and assurances, as the Secretary may require:

14 (1) ASSURANCE OF A PUBLIC DEVELOPMENT  
15 PROCESS.—The application contains an assurance  
16 that the State has engaged, and will continue to en-  
17 gage, in a public process for the design, develop-  
18 ment, and evaluation of the MFP demonstration  
19 project that allows for input from eligible individ-  
20 uals, the families of such individuals, authorized rep-  
21 resentatives of such individuals, providers, and other  
22 interested parties.

23 (2) OPERATION IN CONNECTION WITH QUALI-  
24 FIED HCB PROGRAM TO ASSURE CONTINUITY OF  
25 SERVICES.—The State will conduct the MFP dem-

1 onstration project for eligible individuals in conjunc-  
2 tion with the operation of a qualified HCB program  
3 that is in operation (or approved) in the State for  
4 such individuals in a manner that assures continuity  
5 of Medicaid coverage for such individuals so long as  
6 such individuals continue to be eligible for medical  
7 assistance.

8 (3) DEMONSTRATION PROJECT PERIOD.—The  
9 application shall specify the period of the MFP dem-  
10 onstration project, which shall include at least 2 con-  
11 secutive fiscal years in the 5-fiscal-year period begin-  
12 ning with fiscal year 2009.

13 (4) SERVICE AREA.—The application shall  
14 specify the service area or areas of the MFP dem-  
15 onstration project, which may be a statewide area or  
16 one or more geographic areas of the State.

17 (5) TARGETED GROUPS AND NUMBERS OF INDI-  
18 VIDUALS SERVED.—The application shall specify—

19 (A) the target groups of eligible individuals  
20 to be assisted to transition from an inpatient  
21 facility to a qualified residence during each fis-  
22 cal year of the MFP demonstration project;

23 (B) the projected numbers of eligible indi-  
24 viduals in each targeted group of eligible indi-

1           viduals to be so assisted during each such year;  
2           and

3                   (C) the estimated total annual qualified ex-  
4           penditures for each fiscal year of the MFP  
5           demonstration project.

6           (6) INDIVIDUAL CHOICE, CONTINUITY OF  
7           CARE.—The application shall contain assurances  
8           that—

9                   (A) each eligible individual or the individ-  
10          ual's authorized representative will be provided  
11          the opportunity to make an informed choice re-  
12          garding whether to participate in the MFP  
13          demonstration project;

14                   (B) each eligible individual or the individ-  
15          ual's authorized representative will choose the  
16          qualified residence in which the individual will  
17          reside and the setting in which the individual  
18          will receive home and community-based long-  
19          term care services;

20                   (C) the State will continue to make avail-  
21          able, so long as the State operates its qualified  
22          HCB program consistent with applicable re-  
23          quirements, home and community-based long-  
24          term care services to each individual who com-  
25          pletes participation in the MFP demonstration

1 project for as long as the individual remains eli-  
2 gible for medical assistance for such services  
3 under such qualified HCB program (including  
4 meeting a requirement relating to requiring a  
5 level of care provided in an inpatient facility  
6 and continuing to require such services).

7 (7) REBALANCING.—The application shall—

8 (A) provide such information as the Sec-  
9 retary may require concerning the dollar  
10 amounts of State Medicaid expenditures for the  
11 fiscal year, immediately preceding the first fis-  
12 cal year of the State's MFP demonstration  
13 project, for long-term care services and the per-  
14 centage of such expenditures that were for in-  
15 stitutional long-term care services or were for  
16 home and community-based long-term care  
17 services;

18 (B)(i) specify the methods to be used by  
19 the State to increase, for each fiscal year dur-  
20 ing the MFP demonstration project, the dollar  
21 amount of such total expenditures for home and  
22 community-based long-term care services and  
23 the percentage of such total expenditures for  
24 long-term care services that are for home and  
25 community-based long-term care services; and

1           (ii) describe the extent to which the MFP  
2           demonstration project will contribute to accom-  
3           plishment of objectives described in subsection  
4           (a).

5           (8) MONEY FOLLOWS THE PERSON.—The appli-  
6           cation shall describe the methods to be used by the  
7           State to eliminate any legal, budgetary, or other bar-  
8           riers to flexibility in the availability of Medicaid  
9           funds to pay for long-term care services for eligible  
10          individuals participating in the project in the appro-  
11          priate settings of their choice, including costs to  
12          transition from an institutional setting to a qualified  
13          residence.

14          (9) MAINTENANCE OF EFFORT AND COST-EF-  
15          FECTIVENESS.—The application shall contain or be  
16          accompanied by such information and assurances as  
17          may be required to satisfy the Secretary that—

18               (A) total expenditures under the State  
19               Medicaid program for home and community-  
20               based long-term care services will not be less  
21               for any fiscal year during the MFP demonstra-  
22               tion project than for the greater of such ex-  
23               penditures for—

24                       (i) fiscal year 2005; or

1                   (ii) any succeeding fiscal year before  
2                   the first year of the MFP demonstration  
3                   project; and

4                   (B) in the case of a qualified HCB pro-  
5                   gram operating under a waiver under sub-  
6                   section (c) or (d) of section 1915 of the Social  
7                   Security Act (42 U.S.C. 1396n), but for the  
8                   amount awarded under a grant under this sec-  
9                   tion, the State program would continue to meet  
10                  the cost-effectiveness requirements of subsection  
11                  (c)(2)(D) of such section or comparable require-  
12                  ments under subsection (d)(5) of such section,  
13                  respectively.

14                  (10) WAIVER REQUESTS.—The application shall  
15                  contain or be accompanied by requests for any modi-  
16                  fication or adjustment of waivers of Medicaid re-  
17                  quirements described in subsection (d)(3), including  
18                  adjustments to the maximum numbers of individuals  
19                  included and package of benefits, including one-time  
20                  transitional services, provided.

21                  (11) QUALITY ASSURANCE AND QUALITY IM-  
22                  PROVEMENT.—The application shall include—

23                         (A) a plan satisfactory to the Secretary for  
24                         quality assurance and quality improvement for  
25                         home and community-based long-term care

1 services under the State Medicaid program, in-  
2 cluding a plan to assure the health and welfare  
3 of individuals participating in the MFP dem-  
4 onstration project; and

5 (B) an assurance that the State will co-  
6 operate in carrying out activities under sub-  
7 section (f) to develop and implement continuous  
8 quality assurance and quality improvement sys-  
9 tems for home and community-based long-term  
10 care services.

11 (12) OPTIONAL PROGRAM FOR SELF-DIRECTED  
12 SERVICES.—If the State elects to provide for any  
13 home and community-based long-term care services  
14 as self-directed services (as defined in subsection  
15 (b)(8)) under the MFP demonstration project, the  
16 application shall provide the following:

17 (A) MEETING REQUIREMENTS.—A descrip-  
18 tion of how the project will meet the applicable  
19 requirements of such subsection for the provi-  
20 sion of self-directed services.

21 (B) VOLUNTARY ELECTION.—A description  
22 of how eligible individuals will be provided with  
23 the opportunity to make an informed election to  
24 receive self-directed services under the project  
25 and after the end of the project.

1 (C) STATE SUPPORT IN SERVICE PLAN DE-  
2 VELOPMENT.—Satisfactory assurances that the  
3 State will provide support to eligible individuals  
4 who self-direct in developing and implementing  
5 their service plans.

6 (D) OVERSIGHT OF RECEIPT OF SERV-  
7 ICES.—Satisfactory assurances that the State  
8 will provide oversight of eligible individual's re-  
9 ceipt of such self-directed services, including  
10 steps to assure the quality of services provided  
11 and that the provision of such services are con-  
12 sistent with the service plan under such sub-  
13 section.

14 Nothing in this section shall be construed as requir-  
15 ing a State to make an election under the project to  
16 provide for home and community-based long-term  
17 care services as self-directed services, or as requiring  
18 an individual to elect to receive self-directed services  
19 under the project.

20 (13) REPORTS AND EVALUATION.—The applica-  
21 tion shall provide that—

22 (A) the State will furnish to the Secretary  
23 such reports concerning the MFP demonstra-  
24 tion project, on such timetable, in such uniform  
25 format, and containing such information as the

1 Secretary may require, as will allow for reliable  
2 comparisons of MFP demonstration projects  
3 across States; and

4 (B) the State will participate in and co-  
5 operate with the evaluation of the MFP dem-  
6 onstration project.

7 (d) SECRETARY'S AWARD OF COMPETITIVE  
8 GRANTS.—

9 (1) IN GENERAL.—The Secretary shall award  
10 grants under this section on a competitive basis to  
11 States selected from among those with applications  
12 meeting the requirements of subsection (c), in ac-  
13 cordance with the provisions of this subsection.

14 (2) SELECTION AND MODIFICATION OF STATE  
15 APPLICATIONS.—In selecting State applications for  
16 the awarding of such a grant, the Secretary—

17 (A) shall take into consideration the man-  
18 ner in which, and extent to which, the State  
19 proposes to achieve the objectives specified in  
20 subsection (a);

21 (B) shall seek to achieve an appropriate  
22 national balance in the numbers of eligible indi-  
23 viduals, within different target groups of eligi-  
24 ble individuals, who are assisted to transition to  
25 qualified residences under MFP demonstration

1 projects, and in the geographic distribution of  
2 States operating MFP demonstration projects;

3 (C) shall give preference to State applica-  
4 tions proposing—

5 (i) to provide transition assistance to  
6 eligible individuals within multiple target  
7 groups; and

8 (ii) to provide eligible individuals with  
9 the opportunity to receive home and com-  
10 munity-based long-term care services as  
11 self-directed services, as defined in sub-  
12 section (b)(8); and

13 (D) shall take such objectives into consid-  
14 eration in setting the annual amounts of State  
15 grant awards under this section.

16 (3) WAIVER AUTHORITY.—The Secretary is au-  
17 thorized to waive the following provisions of title  
18 XIX of the Social Security Act, to the extent nec-  
19 essary to enable a State initiative to meet the re-  
20 quirements and accomplish the purposes of this sec-  
21 tion:

22 (A) STATEWIDENESS.—Section  
23 1902(a)(1), in order to permit implementation  
24 of a State initiative in a selected area or areas  
25 of the State.

1                   (B)                   COMPARABILITY.—Section  
2                   1902(a)(10)(B), in order to permit a State ini-  
3                   tiative to assist a selected category or categories  
4                   of individuals described in subsection (b)(2)(A).

5                   (C)   INCOME   AND   RESOURCES   ELIGI-  
6                   BILITY.—Section   1902(a)(10)(C)(i)(III),   in  
7                   order to permit a State to apply institutional  
8                   eligibility rules to individuals transitioning to  
9                   community-based care.

10                  (D)   PROVIDER   AGREEMENTS.—Section  
11                  1902(a)(27), in order to permit a State to im-  
12                  plement self-directed services in a cost-effective  
13                  manner.

14                  (4)   CONDITIONAL   APPROVAL   OF   OUTYEAR  
15                  GRANT.—In awarding grants under this section, the  
16                  Secretary shall condition the grant for the second  
17                  and any subsequent fiscal years of the grant period  
18                  on the following:

19                       (A)   NUMERICAL   BENCHMARKS.—The  
20                       State must demonstrate to the satisfaction of  
21                       the Secretary that it is meeting numerical  
22                       benchmarks specified in the grant agreement  
23                       for—

1 (i) increasing State Medicaid support  
2 for home and community-based long-term  
3 care services under subsection (c)(5); and

4 (ii) numbers of eligible individuals as-  
5 sisted to transition to qualified residences.

6 (B) QUALITY OF CARE.—The State must  
7 demonstrate to the satisfaction of the Secretary  
8 that it is meeting the requirements under sub-  
9 section (c)(11) to assure the health and welfare  
10 of MFP demonstration project participants.

11 (e) PAYMENTS TO STATES; CARRYOVER OF UNUSED  
12 GRANT AMOUNTS.—

13 (1) PAYMENTS.—For each calendar quarter in  
14 a fiscal year during the period a State is awarded  
15 a grant under subsection (d), the Secretary shall pay  
16 to the State from its grant award for such fiscal  
17 year an amount equal to the lesser of—

18 (A) 90 percent of the amount of qualified  
19 expenditures made during such quarter; or

20 (B) the total amount remaining in such  
21 grant award for such fiscal year (taking into  
22 account the application of paragraph (2)).

23 (2) CARRYOVER OF UNUSED AMOUNTS.—Any  
24 portion of a State grant award for a fiscal year  
25 under this section remaining at the end of such fis-

1 cal year shall remain available to the State for the  
2 next 4 fiscal years, subject to paragraph (3).

3 (3) REAWARDING OF CERTAIN UNUSED  
4 AMOUNTS.—In the case of a State that the Sec-  
5 retary determines pursuant to subsection (d)(4) has  
6 failed to meet the conditions for continuation of a  
7 MFP demonstration project under this section in a  
8 succeeding year or years, the Secretary shall rescind  
9 the grant awards for such succeeding year or years,  
10 together with any unspent portion of an award for  
11 prior years, and shall add such amounts to the ap-  
12 propriation for the immediately succeeding fiscal  
13 year for grants under this section.

14 (4) PREVENTING DUPLICATION OF PAYMENT.—  
15 The payment under a MFP demonstration project  
16 with respect to qualified expenditures shall be in lieu  
17 of any payment with respect to such expenditures  
18 that could otherwise be paid under Medicaid, includ-  
19 ing under section 1903(a) of the Social Security Act.  
20 Nothing in the previous sentence shall be construed  
21 as preventing the payment under Medicaid for such  
22 expenditures in a grant year after amounts available  
23 to pay for such expenditures under the MFP dem-  
24 onstration project have been exhausted.

1 (f) QUALITY ASSURANCE AND IMPROVEMENT; TECH-  
2 NICAL ASSISTANCE; OVERSIGHT.—

3 (1) IN GENERAL.—The Secretary, either di-  
4 rectly or by grant or contract, shall provide for tech-  
5 nical assistance to, and oversight of, States for pur-  
6 poses of upgrading quality assurance and quality im-  
7 provement systems under Medicaid home and com-  
8 munity-based waivers, including—

9 (A) dissemination of information on prom-  
10 ising practices;

11 (B) guidance on system design elements  
12 addressing the unique needs of participating  
13 beneficiaries;

14 (C) ongoing consultation on quality, in-  
15 cluding assistance in developing necessary tools,  
16 resources, and monitoring systems; and

17 (D) guidance on remedying programmatic  
18 and systemic problems.

19 (2) FUNDING.—From the amounts appro-  
20 priated under subsection (h)(1) for the portion of  
21 fiscal year 2009 that begins on January 1, 2009,  
22 and ends on September 30, 2009, and for fiscal year  
23 2010, not more than \$2,400,000 shall be available  
24 to the Secretary to carry out this subsection during

1 the period that begins on January 1, 2009, and ends  
2 on September 30, 2013.

3 (g) RESEARCH AND EVALUATION.—

4 (1) IN GENERAL.—The Secretary, directly or  
5 through grant or contract, shall provide for research  
6 on, and a national evaluation of, the program under  
7 this section, including assistance to the Secretary in  
8 preparing the final report required under paragraph  
9 (2). The evaluation shall include an analysis of pro-  
10 jected and actual savings related to the transition of  
11 individuals to qualified residences in each State con-  
12 ducting an MFP demonstration project.

13 (2) FINAL REPORT.—The Secretary shall make  
14 a final report to the President and Congress, not  
15 later than September 30, 2013, reflecting the eval-  
16 uation described in paragraph (1) and providing  
17 findings and conclusions on the conduct and effec-  
18 tiveness of MFP demonstration projects.

19 (3) FUNDING.—From the amounts appro-  
20 priated under subsection (h)(1) for each of fiscal  
21 years 2010 through 2013, not more than \$1,100,000  
22 per year shall be available to the Secretary to carry  
23 out this subsection.

24 (h) APPROPRIATIONS.—

1           (1) IN GENERAL.—There are appropriated,  
2 from any funds in the Treasury not otherwise appro-  
3 priated, for grants to carry out this section—

4           (A) \$250,000,000 for the portion of fiscal  
5 year 2009 beginning on January 1, 2009, and  
6 ending on September 30, 2009;

7           (B) \$300,000,000 for fiscal year 2010;

8           (C) \$350,000,000 for fiscal year 2011;

9           (D) \$400,000,000 for fiscal year 2012;

10          and

11          (E) \$450,000,000 for fiscal year 2013.

12          (2) AVAILABILITY.—Amounts made available  
13 under paragraph (1) for a fiscal year shall remain  
14 available for the awarding of grants to States by not  
15 later than September 30, 2013.

16 **CHAPTER 6—OPTION FOR HURRICANE**  
17 **KATRINA DISASTER STATES TO DELAY**  
18 **APPLICATION**

19 **SEC. 6071. OPTION FOR HURRICANE KATRINA DISASTER**  
20 **STATES TO DELAY APPLICATION.**

21          Notwithstanding any provision of this subtitle, or any  
22 amendment made by this subtitle, the State of Louisiana,  
23 Mississippi, or Alabama may elect to not have the provi-  
24 sions of this subtitle, or of any amendment made by this  
25 subtitle, apply with respect to the State during any period

1 for which a major disaster declared in accordance with  
 2 section 401 of the Robert T. Stafford Disaster Relief and  
 3 Emergency Assistance Act (42 U.S.C. 5170) with respect  
 4 to a parish, in the case of Louisiana, or a county, in the  
 5 case of Mississippi or Alabama, as a result of Hurricane  
 6 Katrina is in effect.

## 7 **Subtitle B—Medicare**

### 8 **SEC. 6101. IMPROVEMENTS TO THE MEDICARE-DEPENDENT** 9 **HOSPITAL (MDH) PROGRAM.**

10 (a) 5-YEAR EXTENSION.—

11 (1) EXTENSION OF PAYMENT METHOD-  
 12 OLOGY.—Section 1886(d)(5)(G) (42 U.S.C.  
 13 1395ww(d)(5)(G)) is amended—

14 (A) in clause (i), by striking “October 1,  
 15 2006” and inserting “October 1, 2011”; and

16 (B) in clause (ii)(II)—

17 (i) by striking “October 1, 2006” and  
 18 inserting “October 1, 2011”; and

19 (ii) by inserting “or for discharges in  
 20 the fiscal year” after “for the cost report-  
 21 ing period”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) EXTENSION OF TARGET AMOUNT.—  
 24 Section 1886(b)(3)(D) (42 U.S.C.  
 25 1395ww(b)(3)(D)) is amended—

1 (i) in the matter preceding clause

2 (i)—

3 (I) by striking “beginning” and  
4 inserting “occurring”; and

5 (II) by striking “October 1,  
6 2006” and inserting “October 1,  
7 2011”; and

8 (ii) in clause (iv), by striking  
9 “through fiscal year 2005” and inserting  
10 “through fiscal year 2011”.

11 (B) PERMITTING HOSPITALS TO DECLINE  
12 RECLASSIFICATION.—Section 13501(e)(2) of  
13 the Omnibus Budget Reconciliation Act of 1993  
14 (42 U.S.C. 1395ww note) is amended by strik-  
15 ing “through fiscal year 2005” and inserting  
16 “through fiscal year 2011”.

17 (b) OPTION TO USE OF 2002 AS BASE YEAR.—Sec-  
18 tion 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

19 (1) in subparagraph (D), by inserting “subject  
20 to subparagraph (K),” after “(d)(5)(G),”; and

21 (2) by adding at the end the following new sub-  
22 paragraph:

23 “(K)(i) With respect to discharges occurring on or  
24 after October 1, 2006, in the case of a medicare-depend-

1 ent, small rural hospital, for purposes of applying sub-  
 2 paragraph (D)—

3 “(I) there shall be substituted for the base cost  
 4 reporting period described in subparagraph (D)(i)  
 5 the 12-month cost reporting period beginning during  
 6 fiscal year 2002; and

7 “(II) any reference in such subparagraph to the  
 8 ‘first cost reporting period’ described in such sub-  
 9 paragraph is deemed a reference to the first cost re-  
 10 porting period beginning on or after October 1,  
 11 2006.

12 “(ii) This subparagraph shall only apply to a hospital  
 13 if the substitution described in clause (i)(I) results in an  
 14 increase in the target amount under subparagraph (D) for  
 15 the hospital.”.

16 (c) ENHANCED PAYMENT FOR AMOUNT BY WHICH  
 17 THE TARGET EXCEEDS THE PPS RATE.—Section  
 18 1886(d)(5)(G)(ii)(II) (42 U.S.C.  
 19 1395ww(d)(5)(G)(iv)(II)) is amended by inserting “(or 75  
 20 percent in the case of discharges occurring on or after Oc-  
 21 tober 1, 2006)” after “50 percent”.

22 (d) ENHANCED DISPROPORTIONATE SHARE HOS-  
 23 PITAL (DSH) TREATMENT FOR MEDICARE DEPENDENT  
 24 HOSPITALS.—Section 1886(d)(5)(F)(xiv)(II) (42 U.S.C.  
 25 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting “or, in

1 the case of discharges occurring on or after October 1,  
 2 2006, as a medicare-dependent, small rural hospital under  
 3 subparagraph (G)(iv)” before the period at the end.

4 **SEC. 6102. REDUCTION IN PAYMENTS TO SKILLED NURSING**  
 5 **FACILITIES FOR BAD DEBT.**

6 (a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C.  
 7 1395x(v)(1)) is amended by adding at the end the fol-  
 8 lowing new subparagraph:

9 “(V) In determining such reasonable costs for skilled  
 10 nursing facilities with respect to services furnished on or  
 11 after October 1, 2005, the amount of bad debts otherwise  
 12 treated as allowed costs which are attributable to the  
 13 deductibles and coinsurance amounts under this title shall  
 14 be reduced by 30 percent of such amount otherwise allow-  
 15 able.”.

16 (b) TECHNICAL AMENDMENT.—Section  
 17 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amended by  
 18 striking “section 1833(t)(5)(B)” and inserting “section  
 19 1833(t)(8)(B)”.

20 **SEC. 6103. TWO-YEAR EXTENSION OF THE 50 PERCENT COM-**  
 21 **PLIANCE THRESHOLD USED TO DETERMINE**  
 22 **WHETHER A HOSPITAL OR UNIT OF A HOS-**  
 23 **PITAL IS AN INPATIENT REHABILITATION FA-**  
 24 **CILITY UNDER THE MEDICARE PROGRAM.**

25 (a) EXTENSION.—

1           (1) IN GENERAL.—Effective as if enacted on  
2     June 30, 2005, notwithstanding section  
3     412.23(b)(2) of title 42, Code of Federal Regula-  
4     tions, during the period beginning on July 1, 2005,  
5     and ending on June 30, 2007, the Secretary of  
6     Health and Human Services shall not—

7           (A) require a compliance rate, pursuant to  
8     the criterion (commonly known as the “75 per-  
9     cent rule”) that is used to determine whether a  
10    hospital or unit of a hospital is an inpatient re-  
11    habilitation facility (as defined in the rule pub-  
12    lished in the Federal Register on May 7, 2004,  
13    entitled “Medicare Program; Final Rule;  
14    Changes to the Criteria for Being Classified as  
15    an Inpatient Rehabilitation Facility” (69 Fed.  
16    Reg. 25752)), that is greater than the 50 per-  
17    cent compliance threshold that became effective  
18    on July 1, 2004; or

19          (B) change the designation of an inpatient  
20    rehabilitation facility that is in compliance with  
21    such 50 percent threshold.

22          (2) RETROACTIVE STATUS AS AN INPATIENT  
23    REHABILITATION FACILITY; PAYMENTS; EXPEDITED  
24    REVIEW.—The Secretary of Health and Human  
25    Services shall establish procedures for—

1           (A) making any necessary retroactive ad-  
2           justment to restore the status of a facility as an  
3           inpatient rehabilitation facility as a result of  
4           subsection (a); and

5           (B) making any necessary payments to in-  
6           patient rehabilitation facilities based on such  
7           adjustment for discharges occurring on or after  
8           July 1, 2005, and before the date of enactment  
9           of this Act.

10       (b) SPECIAL RULE.—In the case of a hospital or unit  
11 of a hospital that failed to meet the 50 percent compliance  
12 threshold described in subsection (a)(1)(A) with respect  
13 to the first cost reporting period of the hospital or unit  
14 that began on or after July 1, 2004, the following rules  
15 shall apply:

16           (1) Such hospital or unit shall be deemed to  
17           meet such 50 percent threshold for purposes of sub-  
18           section (a).

19           (2) The Secretary shall examine all the claims  
20           of the hospital or unit under title XVIII of the So-  
21           cial Security Act submitted during the 6-month pe-  
22           riod beginning after the end of such first cost re-  
23           porting period.

1           (3) If the Secretary determines after such re-  
2 view that the hospital or unit is still not in compli-  
3 ance with such 50 percent compliance threshold—

4           (A) the deemed status of the hospital or  
5 unit under paragraph (1) shall be revoked ret-  
6 roactive to the beginning of such 6-month pe-  
7 riod; and

8           (B) the Secretary shall provide for the col-  
9 lection of any necessary overpayments by rea-  
10 son of the revocation under subparagraph (A).

11       (c) STUDY AND REPORT BY THE HHS INSPECTOR  
12 GENERAL.—

13       (1) STUDY.—

14           (A) IN GENERAL.—The Inspector General  
15 of the Department of Health and Human Serv-  
16 ices shall conduct a study of hospitals and units  
17 of hospitals that—

18           (i) are designated as inpatient reha-  
19 bilitation facilities under title XVIII of the  
20 Social Security Act; and

21           (ii) would not be so designated if this  
22 section had not been enacted because the  
23 hospital or unit has a compliance rate that  
24 is greater than the 50 percent compliance  
25 threshold described in subsection (a)(1)(A)

1 but is less than the 60 percent compliance  
2 threshold that would have become effective  
3 on July 1, 2005, but for this section.

4 (B) REQUIREMENT.—In conducting the  
5 study under subparagraph (A), the Inspector  
6 General shall analyze the types of patients the  
7 hospitals and units are treating and issues re-  
8 lating to the medical conditions of such patients  
9 that do not meet the medical requirements for  
10 determining compliance with such threshold.

11 (2) REPORT.—Not later than January 1, 2007,  
12 the Inspector General shall submit to Congress and  
13 the Secretary a report on the study conducted under  
14 paragraph (1), together with such recommendations  
15 as the Inspector General determines appropriate.

16 (d) REHABILITATION ADVISORY COUNCIL.—

17 (1) ESTABLISHMENT.—The Secretary shall es-  
18 tablish an advisory council to be known as the “Re-  
19 habilitation Advisory Council”.

20 (2) MEMBERSHIP.—The membership of the Re-  
21 habilitation Advisory Council shall include—

22 (A) physicians;

23 (B) Medicare beneficiaries;

24 (C) representatives of inpatient rehabilita-  
25 tion facilities; and

1 (D) representatives of other entities and  
2 practitioners that provide rehabilitative care in  
3 settings other than in such facilities, such as  
4 skilled nursing facilities.

5 (3) DUTIES.—

6 (A) ADVICE AND RECOMMENDATIONS.—

7 The Rehabilitation Advisory Council shall pro-  
8 vide advice and recommendations to Congress  
9 and the Secretary concerning the coverage of  
10 rehabilitation services under the Medicare pro-  
11 gram, including the appropriate medical criteria  
12 for determining the appropriateness of inpatient  
13 rehabilitation facility admissions.

14 (B) PERIODIC REPORTS.—The Rehabilita-  
15 tion Advisory Council shall provide Congress  
16 and the Secretary with periodic reports that  
17 summarize—

18 (i) the Council's activities; and

19 (ii) any recommendations for legisla-  
20 tion or administrative action the Council  
21 considers to be appropriate.

22 (4) TERMINATION.—The Rehabilitation  
23 Advisory Council shall terminate on September  
24 30, 2010.

1 **SEC. 6104. PROHIBITION ON PHYSICIAN SELF REFERRALS**  
 2 **TO PHYSICIAN OWNED, LIMITED SERVICE**  
 3 **HOSPITALS.**

4 (a) PROHIBITION.—Section 1877(d) (42 U.S.C.  
 5 1395m(d)) is amended in each of paragraphs (2)(B) and  
 6 (3)(B) by striking “effective for the 18-month period be-  
 7 ginning on the date of enactment of the Medicare Pre-  
 8 scription Drug, Improvement, and Modernization Act of  
 9 2003” and inserting “on and after December 8, 2003”.

10 (b) REVISIONS TO THE REQUIREMENTS TO QUALIFY  
 11 FOR THE EXCEPTION TO THE DEFINITION OF SPECIALTY  
 12 HOSPITAL.—Section 1877(h)(7)(B) (42 U.S.C.  
 13 1395m(h)(7)(B)) is amended—

14 (1) by redesignating clauses (iii), (iv), and (v)  
 15 as clauses (vi), (vii), and (viii), respectively;

16 (2) by inserting after clause (ii) the following  
 17 new clauses:

18 “(iii) for which the percent of invest-  
 19 ment in the hospital by physician investors  
 20 at any time on or after June 8, 2005, is  
 21 no greater than the percent of such invest-  
 22 ment by physician investors as of such  
 23 date;

24 “(iv) for which the percent of invest-  
 25 ment in the hospital by any physician in-  
 26 vestor at any time on or after June 8,

1           2005, is no greater than the percent of  
2           such investment by such physician as of  
3           such date;

4           “(v) for which the number of oper-  
5           ating rooms at the hospital at any time on  
6           or after June 8, 2005, is no greater than  
7           the number of such rooms as of such  
8           date;” and

9           (3) by striking clause (vii), as so redesignated,  
10          and inserting the following:

11           “(vii) for which—

12           “(I) during the period beginning  
13           on December 8, 2003, and ending on  
14           June 7, 2005, any increase in the  
15           number of beds occurs only in the fa-  
16           cilities on the main campus of the  
17           hospital and does not exceed 50 per-  
18           cent of the number of beds in the hos-  
19           pital as of November 18, 2003, or 5  
20           beds, whichever is greater; and

21           “(II) the number of beds at the  
22           hospital at any time on or after June  
23           8, 2005, is no greater than the num-  
24           ber of such beds as of such date;  
25           and”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on June 8, 2005.

3 **SEC. 6105. MINIMUM UPDATE FOR PHYSICIANS' SERVICES**  
4 **FOR 2006.**

5 (a) MINIMUM UPDATE FOR 2006.—Section 1848(d)  
6 (42 U.S.C. 1395w-4(d)), as amended by section 6110(e),  
7 is amended by adding at the end the following new para-  
8 graph:

9 “(7) UPDATE FOR 2006.—The update to the  
10 single conversion factor established in paragraph  
11 (1)(C) for 2006 shall be not less than 1 percent.”.

12 (b) CONFORMING AMENDMENT.—Section  
13 1848(d)(4)(B) (42 U.S.C. 1395w-4(d)(4)(B)) is amended,  
14 in the matter preceding clause (i), by striking “paragraph  
15 (5)” and inserting “paragraphs (5) and (7)”.

16 (c) NOT TREATED AS CHANGE IN LAW AND REGULA-  
17 TION IN SUSTAINABLE GROWTH RATE DETERMINA-  
18 TION.—The amendments made by this section shall not  
19 be treated as a change in law for purposes of applying  
20 section 1848(f)(2)(D) of the Social Security Act (42  
21 U.S.C. 1395w-4(f)(2)(D)).

1 **SEC. 6106. ONE-YEAR EXTENSION OF HOLD HARMLESS PRO-**  
 2 **VISIONS FOR SMALL RURAL HOSPITALS AND**  
 3 **SOLE COMMUNITY HOSPITALS UNDER THE**  
 4 **PROSPECTIVE PAYMENT SYSTEM FOR HOS-**  
 5 **PITAL OUTPATIENT DEPARTMENT SERVICES.**

6 Section 1833(t)(7)(D)(i) (42 U.S.C.  
 7 1395l(t)(7)(D)(i)) is amended by striking “January 1,  
 8 2006” and inserting “January 1, 2007”.

9 **SEC. 6107. UPDATE TO THE COMPOSITE RATE COMPONENT**  
 10 **OF THE BASIC CASE-MIX ADJUSTED PRO-**  
 11 **SPECTIVE PAYMENT SYSTEM FOR DIALYSIS**  
 12 **SERVICES.**

13 Section 1881(b)(12) (42 U.S.C. 1395rr(b)(12)) is  
 14 amended—

15 (1) in subparagraph (F), in the flush matter at  
 16 the end, by striking “Nothing” and inserting “Ex-  
 17 cept as provided in subparagraph (G), nothing”;

18 (2) by redesignating subparagraph (G) as sub-  
 19 paragraph (H); and

20 (3) by inserting after subparagraph (F) the fol-  
 21 lowing new subparagraph:

22 “(G) The Secretary shall increase the amount of the  
 23 composite rate component of the basic case-mix adjusted  
 24 system under subparagraph (B) for dialysis services fur-  
 25 nished on or after January 1, 2006, by 1.6 percent above

1 the amount of such composite rate component for such  
 2 services furnished on December 31, 2005.”.

3 **SEC. 6108. ONE-YEAR EXTENSION OF MORATORIUM ON**  
 4 **THERAPY CAPS.**

5 Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is  
 6 amended by striking “and 2005” and inserting “2005,  
 7 and 2006”.

8 **SEC. 6109. TRANSFER OF TITLE OF CERTAIN DME TO PA-**  
 9 **TIENT AFTER 13-MONTH RENTAL.**

10 (a) IN GENERAL.—Section 1834(a)(7)(A) (42 U.S.C.  
 11 1395m(a)(7)(A)) is amended to read as follows:

12 “(A) PAYMENT.—In the case of an item of  
 13 durable medical equipment not described in  
 14 paragraphs (2) through (6), the following rules  
 15 shall apply:

16 “(i) RENTAL.—

17 “(I) IN GENERAL.—Payment for  
 18 the item shall be made on a monthly  
 19 basis for the rental of the item during  
 20 the period of medical need (but pay-  
 21 ments under this clause may not ex-  
 22 tend over a period of continuous use  
 23 (as determined by the Secretary) of  
 24 longer than 13 months).

1           “(II) PAYMENT AMOUNT.—Sub-  
2           ject to subparagraph (B), the amount  
3           recognized for the item—

4                   “(aa) for each of the first 3  
5                   months of such period is 10 per-  
6                   cent of the purchase price recog-  
7                   nized under paragraph (8) with  
8                   respect to the item; and

9                   “(bb) for each of the re-  
10                  maining months of such period is  
11                  7.5 percent of such purchase  
12                  price.

13           “(ii) OWNERSHIP AFTER RENTAL.—

14                   “(I) TRANSFER OF TITLE.—On  
15                   the first day that begins after the  
16                   13th continuous month during which  
17                   payment is made for the rental of an  
18                   item under clause (i), the supplier of  
19                   the item shall transfer title to the  
20                   item to the individual.

21                   “(II) MAINTENANCE AND SERV-  
22                   ICING.—After the supplier transfers  
23                   title to the item under subclause (I),  
24                   maintenance and servicing payments  
25                   shall, if the Secretary determines such

1                   payments are reasonable and nec-  
 2                   essary, be made (for parts and labor  
 3                   not covered by the supplier’s or manu-  
 4                   facturer’s warranty, as determined by  
 5                   the Secretary to be appropriate for  
 6                   the particular type of durable medical  
 7                   equipment), and such payments shall  
 8                   be in an amount determined to be ap-  
 9                   propriate by the Secretary.”.

10           (b) **EFFECTIVE DATE.**—The amendment made by  
 11 subsection (a) shall apply to items furnished for which the  
 12 first rental month occurs on or after January 1, 2006.

13 **SEC. 6110. ESTABLISHMENT OF MEDICARE VALUE-BASED**  
 14 **PURCHASING PROGRAMS.**

15           (a) **IN GENERAL.**—Title XVIII (42 U.S.C. 1395 et  
 16 seq.) is amended—

17                   (1) by redesignating part E as part F; and

18                   (2) by inserting after part D the following new

19 part:

20                   “PART E—VALUE-BASED PURCHASING

21 “QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED

22 PURCHASING PROGRAMS

23 “SEC. 1860E–1. (a) **ESTABLISHMENT.**—

24                   “(1) **IN GENERAL.**—The Secretary shall develop

25 quality measurement systems in accordance with

1 subsections (b), (c), (d), and (e), for purposes of  
2 providing value-based payments to—

3 “(A) hospitals pursuant to section 1860E–  
4 2;

5 “(B) physicians and practitioners pursuant  
6 to section 1860E–3;

7 “(C) plans pursuant to section 1860E–4;

8 “(D) end stage renal disease providers and  
9 facilities pursuant to section 1860E–5; and

10 “(E) home health agencies pursuant to  
11 section 1860E–6.

12 “(2) QUALITY.—The systems developed under  
13 paragraph (1) shall measure the quality of the care  
14 furnished by the provider involved.

15 “(3) HIGH QUALITY HEALTH CARE DEFINED.—  
16 In this part, the term ‘high quality health care’  
17 means health care that is safe, effective, patient-cen-  
18 tered, timely, equitable, efficient, necessary, and ap-  
19 propriate.

20 “(b) REQUIREMENTS FOR SYSTEMS.—Under each  
21 quality measurement system described in subsection  
22 (a)(1), the Secretary shall do the following:

23 “(1) MEASURES.—

24 “(A) IN GENERAL.—Subject to subpara-  
25 graph (B), the Secretary shall select measures

1 of quality to be used by the Secretary under  
2 each system.

3 “(B) REQUIREMENTS.—In selecting the  
4 measures to be used under each system pursu-  
5 ant to subparagraph (A), the Secretary shall, to  
6 the extent feasible and practicable, ensure  
7 that—

8 “(i) such measures are evidence-  
9 based, reliable and valid, actionable, and  
10 reasonable to collect and report;

11 “(ii) measures of process, structure,  
12 outcomes, and beneficiary experience of  
13 care are included;

14 “(iii) except for the system that is  
15 used to provide value-based payments to  
16 physicians and practitioners under section  
17 1860E–3, measures of efficiency (where ef-  
18 ficiency is improved quality care through  
19 the effective use of resources) are included;

20 “(iv) measures of overuse and  
21 underuse of health care items and services  
22 are included;

23 “(v)(I) at least 1 measure of health  
24 information technology infrastructure that  
25 enables the provision of high quality health

1 care and facilitates the exchange of health  
2 information, such as the use of 1 or more  
3 elements of a qualified health information  
4 system (as defined in subparagraph (E)),  
5 is included during the first year each sys-  
6 tem is implemented; and

7 “(II) additional measures of health in-  
8 formation technology infrastructure are in-  
9 cluded in subsequent years;

10 “(vi) in the case of the system that is  
11 used to provide value-based payments to  
12 hospitals under section 1860E–2, by not  
13 later than January 1, 2008, at least 5  
14 measures that take into account the unique  
15 characteristics of small hospitals located in  
16 rural areas and frontier areas are included;  
17 and

18 “(vii) measures that assess the quality  
19 of care furnished to frail individuals over  
20 the age of 75 and to individuals with mul-  
21 tiple complex chronic conditions are in-  
22 cluded.

23 “(C) REQUIREMENT FOR COLLECTION OF  
24 DATA ON A MEASURE FOR 1 YEAR PRIOR TO  
25 USE UNDER THE SYSTEMS.—Data on any

1 measure selected by the Secretary under sub-  
2 paragraph (A) must be collected by the Sec-  
3 retary for at least a 12-month period before  
4 such measure may be used to determine wheth-  
5 er a provider receives a value-based payment  
6 under a program described in subsection (a)(1).

7 “(D) AUTHORITY TO VARY MEASURES.—

8 The Secretary may vary the measures selected  
9 under subparagraph (A) by the entity or indi-  
10 vidual involved based on factors such as the  
11 type of, the size of, and the scope and volume  
12 of services provided by, the entity or individual.  
13 If the Secretary varies the measures for pro-  
14 viders under the preceding sentence, the Sec-  
15 retary shall ensure that such measures are  
16 aligned to promote coordinated quality of care  
17 across provider settings.

18 “(E) QUALIFIED HEALTH INFORMATION

19 SYSTEM DEFINED.—For purposes of subpara-  
20 graph (B)(iv)(I), the term ‘qualified health in-  
21 formation system’ means a computerized sys-  
22 tem (including hardware, software, and train-  
23 ing) that—

1           “(i) protects the privacy and security  
2           of health information and properly  
3           encrypts such health information;

4           “(ii) maintains and provides access to  
5           patients’ health records in an electronic  
6           format;

7           “(iii) incorporates decision support  
8           software to reduce medical errors and en-  
9           hance health care quality;

10          “(iv) is consistent with data standards  
11          and certification processes recommended  
12          by the Secretary;

13          “(v) allows for the reporting of quality  
14          measures; and

15          “(vi) includes other features deter-  
16          mined appropriate by the Secretary.

17          “(2) WEIGHTS OF MEASURES.—The Secretary  
18          shall assign weights to the measures used by the  
19          Secretary under each system. If the Secretary deter-  
20          mines appropriate, in assigning the weights under  
21          the preceding sentence, some measures may be  
22          weighted more heavily than other measures.

23          “(3) RISK ADJUSTMENT.—The Secretary shall  
24          establish procedures, as appropriate, to control for  
25          differences in beneficiary health status and bene-

1       ficiary characteristics. To the extent feasible, such  
2       procedures may be based on existing models for con-  
3       trolling for such differences.

4               “(4) MAINTENANCE.—

5                       “(A) IN GENERAL.—The Secretary shall,  
6                       as determined appropriate, but not more often  
7                       than once each 12-month period, review and re-  
8                       vise each system, including through—

9                               “(i) the refinement of measures under  
10                               the systems and the retirement of existing  
11                               outdated measures under the system;

12                               “(ii) the refinement of the weights as-  
13                               signed to measures under the system; and

14                               “(iii) the refinement of the risk ad-  
15                               justment procedures established pursuant  
16                               to paragraph (3) under the system.

17                       “(B) REVISION SHALL ALLOW FOR COM-  
18                       PARISON OF DATA.—Each revision under sub-  
19                       paragraph (A) of a quality measurement system  
20                       shall allow for the comparison of data from one  
21                       year to the next for purposes of providing  
22                       value-based payments under the programs de-  
23                       scribed in subsection (a)(1).

24               “(5) USE OF MOST RECENT QUALITY DATA.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), the Secretary shall use the  
3           most recent quality data with respect to the  
4           provider involved that is available to the Sec-  
5           retary.

6           “(B) INSUFFICIENT DATA DUE TO LOW  
7           VOLUME.—If the Secretary determines that  
8           there is insufficient data with respect to a  
9           measure or measures because of a low number  
10          of services provided, the Secretary may aggre-  
11          gate data across more than 1 fiscal or calendar  
12          year, as the case may be.

13          “(c) REQUIREMENTS FOR DEVELOPING AND RE-  
14          VIEWING AND REVISING THE SYSTEMS.—In developing  
15          and reviewing and revising each quality measurement sys-  
16          tem under this section, the Secretary shall—

17               “(1) consult with, and take into account the  
18               recommendations of, the entity that the Secretary  
19               has an arrangement with under subsection (e);

20               “(2) consult with provider-based groups, clinical  
21               specialty societies, and certification boards;

22               “(3) take into account existing quality measure-  
23               ment systems that have been developed through a  
24               rigorous process of validation and with the involve-

1 ment of entities and persons described in subsection  
2 (e)(2)(B); and

3 “(4) take into account—

4 “(A) each of the reports by the Medicare  
5 Payment Advisory Commission that are re-  
6 quired under section 1860E–3(a)(1);

7 “(B) the results of appropriate studies, re-  
8 ports, and demonstration programs; and

9 “(C) the report by the Institute of Medi-  
10 cine of the National Academy of Sciences under  
11 section 238(b) of the Medicare Prescription  
12 Drug, Improvement, and Modernization Act of  
13 2003 (Public Law 108–173).

14 “(d) REQUIREMENTS FOR IMPLEMENTING THE SYS-  
15 TEMS.—In implementing each quality measurement sys-  
16 tem under this section, the Secretary shall consult with  
17 entities—

18 “(1) that have joined together to develop strate-  
19 gies for quality measurement and reporting, includ-  
20 ing the feasibility of collecting and reporting mean-  
21 ingful data on quality measures; and

22 “(2) that involve representatives of health care  
23 providers, health plans, consumers, employers, pur-  
24 chasers, quality experts, government agencies, and

1 other individuals and groups that are interested in  
2 quality of care.

3 “(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE  
4 ADVICE AND RECOMMENDATIONS.—

5 “(1) ARRANGEMENT.—On and after July 1,  
6 2006, the Secretary shall have in place an arrange-  
7 ment with an entity that meets the requirements de-  
8 scribed in paragraph (2) under which such entity  
9 provides the Secretary with advice on, and rec-  
10 ommendations with respect to, the development and  
11 review and revision of the quality measurement sys-  
12 tems under this section, including the assigning of  
13 weights to the measures under subsection (b)(2).

14 “(2) REQUIREMENTS DESCRIBED.—The re-  
15 quirements described in this paragraph are the fol-  
16 lowing:

17 “(A) The entity is a private nonprofit enti-  
18 ty governed by an executive director and a  
19 board.

20 “(B) The members of the entity include  
21 representatives of—

22 “(i)(I) health plans and providers re-  
23 ceiving reimbursement under this title for  
24 the provision of items and services, includ-  
25 ing health plans and providers with experi-

1           ence in the care of the frail elderly and in-  
2           dividuals with multiple complex chronic  
3           conditions; or

4           ““(II) groups representing such health  
5           plans and providers;

6           ““(ii) groups representing individuals  
7           receiving benefits under this title;

8           ““(iii) purchasers and employers or  
9           groups representing purchasers or employ-  
10          ers;

11          ““(iv) organizations that focus on qual-  
12          ity improvement as well as the measure-  
13          ment and reporting of quality measures;

14          ““(v) organizations that certify and li-  
15          cense such providers;

16          ““(vi) State government health pro-  
17          grams;

18          ““(vii) persons skilled in the conduct  
19          and interpretation of biomedical, health  
20          services, and health economics research  
21          and with expertise in outcomes and effec-  
22          tiveness research and technology assess-  
23          ment; and

24          ““(viii) persons or entities involved in  
25          the development and establishment of

1 standards and certification for health in-  
2 formation technology systems and clinical  
3 data.

4 “(C) The membership of the entity is rep-  
5 resentative of individuals with experience  
6 with—

7 “(i) urban health care issues;

8 “(ii) safety net health care issues; and

9 “(iii) rural and frontier health care  
10 issues.

11 “(D) The entity does not charge a fee for  
12 membership for participation in the work of the  
13 entity related to the arrangement with the Sec-  
14 retary under paragraph (1). If the entity does  
15 require a fee for membership for participation  
16 in other functions of the entity, there shall be  
17 no linkage between such fee and participation  
18 in the work of the entity related to such ar-  
19 rangement with the Secretary.

20 “(E) The entity—

21 “(i) permits members described in  
22 subparagraph (B) to vote on matters of  
23 the entity related to the arrangement with  
24 the Secretary under paragraph (1); and

1                   “(ii) ensures that such members have  
2                   an equal vote on such matters.

3                   “(F) With respect to matters related to the  
4                   arrangement with the Secretary under para-  
5                   graph (1), the entity conducts its business in an  
6                   open and transparent manner and provides the  
7                   opportunity for public comment.

8                   “(G) The entity operates as a voluntary  
9                   consensus standards setting organization as de-  
10                  fined for purposes of section 12(d) of the Na-  
11                  tional Technology Transfer and Advancement  
12                  Act of 1995 (Public Law 104–113) and Office  
13                  of Management and Budget Revised Circular  
14                  A–119 (published in the Federal Register on  
15                  February 10, 1998).

16                  “(3) AUTHORIZATION OF APPROPRIATIONS.—  
17                  For the purpose of carrying out the provisions of  
18                  this subsection, there are authorized to be  
19                  appropriated—

20                         “(A) for each of the fiscal years 2006 and  
21                         2007, \$3,000,000; and

22                         “(B) for fiscal year 2008 and each subse-  
23                         quent fiscal year, an amount equal to the sum  
24                         of—

25                                 “(i) \$3,000,000; and

1           “(ii) such amount multiplied by the  
2           percentage (if any) by which the average of  
3           the Consumer Price Index for all urban  
4           consumers (United States city average) for  
5           the 12-month period ending with June of  
6           the calendar year in which such fiscal year  
7           begins exceeds such average for the 12-  
8           month period ending with June 2006.

9           “PPS HOSPITAL VALUE-BASED PURCHASING PROGRAM

10          “SEC. 1860E-2. (a) PROGRAM.—

11           “(1) IN GENERAL.—The Secretary shall estab-  
12          lish a program under which value-based payments  
13          are provided each fiscal year to hospitals that dem-  
14          onstrate the provision of high quality health care to  
15          individuals who are entitled to benefits under part A  
16          and are inpatients of the hospital.

17           “(2) PROGRAM TO BEGIN IN FISCAL YEAR  
18          2007.—The Secretary shall establish the program  
19          under this section so that value-based payments de-  
20          scribed in subsection (b) are made with respect to  
21          fiscal year 2007 and each subsequent fiscal year.

22           “(3) APPLICABILITY OF PROGRAM TO HOS-  
23          PITALS.—For purposes of this section, the term  
24          ‘hospital’ means a subsection (d) hospital (as defined  
25          in section 1886(d)(1)(B)).

26          “(b) VALUE-BASED PAYMENTS.—

1           “(1) IN GENERAL.—Subject to paragraph (4),  
2           the Secretary shall make a value-based payment to  
3           a hospital with respect to a fiscal year if the Sec-  
4           retary determines that the quality of the care pro-  
5           vided in that year to individuals who are entitled to  
6           benefits under part A and are inpatients of the  
7           hospital—

8                   “(A) has substantially improved (as deter-  
9                   mined by the Secretary) over the prior year; or

10                   “(B) exceeds a threshold established by the  
11                   Secretary.

12           “(2) USE OF SYSTEM.—In determining which  
13           hospitals qualify for a value-based payment under  
14           paragraph (1), the Secretary shall use the quality  
15           measurement system developed for this section pur-  
16           suant to section 1860E-1(a).

17           “(3) DETERMINATION OF AMOUNT OF AWARD  
18           AND ALLOCATION OF AWARDS.—

19                   “(A) IN GENERAL.—The Secretary shall  
20                   determine—

21                           “(i) the amount of a value-based pay-  
22                           ment under paragraph (1) provided to a  
23                           hospital; and

24                           “(ii) subject to subparagraph (B), the  
25                           allocation of the total amount available

1 under subsection (d) for value-based pay-  
2 ments for any fiscal year between pay-  
3 ments with respect to hospitals that meet  
4 the requirement under subparagraph (A)  
5 of paragraph (1) and hospitals that meet  
6 the requirement under subparagraph (B)  
7 of such paragraph.

8 “(B) REQUIREMENTS REGARDING THE  
9 AMOUNT OF FUNDING AVAILABLE FOR VALUE-  
10 BASED PAYMENTS FOR HOSPITALS EXCEEDING  
11 A THRESHOLD.—The Secretary shall ensure  
12 that—

13 “(i) a majority of the total amount  
14 available under subsection (d) for value-  
15 based payments for any fiscal year is pro-  
16 vided to hospitals that are receiving such  
17 payments because they meet the require-  
18 ment under paragraph (1)(B); and

19 “(ii) with respect to fiscal year 2008  
20 and each subsequent fiscal year, the per-  
21 centage of the total amount available  
22 under subsection (d) for value-based pay-  
23 ments for any fiscal year that is used to  
24 make payments to hospitals that meet such

1 requirement is greater than such percent-  
2 age in the previous fiscal year.

3 “(4) REQUIREMENTS.—

4 “(A) REQUIRED SUBMISSION OF DATA.—

5 In order for a hospital to be eligible for a value-  
6 based payment for a fiscal year, the hospital  
7 must have complied with the requirements  
8 under section 1886(b)(3)(B)(viii)(II) with re-  
9 spect to that fiscal year.

10 “(B) ATTESTATION REGARDING DATA.—In

11 order for a hospital to be eligible for a value-  
12 based payment for a fiscal year, the hospital  
13 must have provided the Secretary (under proce-  
14 dures established by the Secretary) with an at-  
15 testation that the data submitted under section  
16 1886(b)(3)(B)(viii)(II) for the fiscal year is  
17 complete and accurate.

18 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-

19 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE

20 FUNDING.—The Secretary shall establish payment

21 amounts under paragraph (3)(A) so that, as esti-

22 mated by the Secretary, the total amount of value-

23 based payments made in a fiscal year under para-

24 graph (1) is equal to the total amount available

25 under subsection (d) for such payments for the year.

1           “(6) PAYMENT METHODS AND TIMING OF PAY-  
2           MENTS.—

3           “(A) IN GENERAL.—Subject to subpara-  
4           graph (B), the payment of value-based pay-  
5           ments under paragraph (1) shall be based on  
6           such a method as the Secretary determines ap-  
7           propriate.

8           “(B) TIMING.—The Secretary shall ensure  
9           that value-based payments under paragraph (1)  
10          with respect to a fiscal year are made by not  
11          later than the close of the following fiscal year.

12          “(c) DESCRIPTION OF HOW HOSPITALS WOULD  
13          HAVE FARED UNDER PROGRAM.—Not later than Janu-  
14          ary 1, 2007, the Secretary shall provide each hospital with  
15          a description of the Secretary’s estimate of how payments  
16          to the hospital under this title would have been affected  
17          with respect to items and services furnished during a pe-  
18          riod, as determined by the Secretary, if the program under  
19          this section (and the amendments made by paragraphs (1)  
20          and (2) of section 6110(b) of the Deficit Reduction Omni-  
21          bus Reconciliation Act of 2005) had been in effect with  
22          respect to that period.

23          “(d) FUNDING.—

24                 “(1) AMOUNT.—The amount available for  
25                 value-based payments under this section with respect

1 to a fiscal year shall be equal to the amount of the  
2 reduction in expenditures under the Federal Hos-  
3 pital Insurance Trust Fund under section 1817 in  
4 the year as a result of the amendments made by sec-  
5 tion 6110(b)(2) of the Deficit Reduction Omnibus  
6 Reconciliation Act of 2005, as estimated by the Sec-  
7 retary.

8 “(2) PAYMENTS FROM TRUST FUND.—Pay-  
9 ments to hospitals under this section shall be made  
10 from the Federal Hospital Insurance Trust Fund.

11 “PHYSICIAN AND PRACTITIONER VALUE-BASED  
12 PURCHASING PROGRAM

13 “SEC. 1860E-3. (a) PROGRAM.—

14 “(1) IN GENERAL.—The Secretary shall estab-  
15 lish a program under which value-based payments  
16 are provided each year to physicians and practi-  
17 tioners that demonstrate the provision of high qual-  
18 ity health care to individuals enrolled under part B  
19 and the Medicare Payment Advisory Commission  
20 shall (A) conduct a study, and submit to Congress  
21 and the Secretary an initial report by not later than  
22 March 1, 2008, and a final report by not later than  
23 June 1, 2012, on how the Medicare value-based pur-  
24 chasing programs under this part will impact Medi-  
25 care beneficiaries, Medicare providers, and Medicare  
26 financing, including how such programs will impact

1 the access of such beneficiaries to items and services  
2 under this title, the volume and utilization of such  
3 items and services, and low-volume providers; and  
4 (B) conduct a study, and submit to Congress and  
5 the Secretary a report by not later than March 1,  
6 2007, on the advisability and feasibility of estab-  
7 lishing a value-based purchasing program under the  
8 this title for critical access hospitals (as defined in  
9 section 1861(mm)(1)); and (C) conduct a study, and  
10 submit to Congress and the Secretary a report by  
11 not later than June 1, 2007, on the advisability and  
12 feasibility of including renal dialysis facilities de-  
13 scribed in subsection (a)(3)(A) of section 1860E-5  
14 in the value-based purchasing program under such  
15 section 1860E-5 or establishing a value-based pur-  
16 chasing program under this title for such facilities;  
17 (D) taking into account the results to date of the  
18 demonstration of bundled case-mix adjusted pay-  
19 ment system for ESRD services under section  
20 623(e) of the Medicare Prescription Drug, Improve-  
21 ment, and Modernization Act of 2003, conduct a  
22 study, and submit to Congress and the Secretary a  
23 report by not later than June 1, 2008, on the imple-  
24 mentation of the ESRD provider and facility value-  
25 based purchasing program under section 1860E-5,

1 including issues for the Secretary to consider in op-  
2 erating the ESRD provider and facility value-based  
3 purchasing program and recommendations on such  
4 issues; and (E) conduct a study, and submit to Con-  
5 gress and the Secretary a report by not later than  
6 June 1, 2007, on the advisability and feasibility of  
7 establishing a value-based purchasing program  
8 under this title for skilled nursing facilities (as de-  
9 fined in section 1819(a)).

10 “(2) PROGRAM TO BEGIN IN 2009.—The Sec-  
11 retary shall establish the program under this section  
12 so that value-based payments described in subsection  
13 (b) are made with respect to 2009 and each subse-  
14 quent year.

15 “(3) DEFINITION OF PHYSICIAN AND PRACTI-  
16 TIONER.—In this section:

17 “(A) PHYSICIAN.—The term ‘physician’  
18 has the meaning given that term in section  
19 1861(r).

20 “(B) PRACTITIONER.—The term ‘practi-  
21 tioner’ means—

22 “(i) a practitioner described in section  
23 1842(b)(18)(C);

24 “(ii) a physical therapist (as described  
25 in section 1861(p));

1                   “(iii) an occupational therapist (as so  
2                   described); and

3                   “(iv) a qualified speech-language pa-  
4                   thologist (as defined in section  
5                   1861(l)(3)(A)).

6                   “(4) IDENTIFICATION OF PHYSICIANS AND  
7                   PRACTITIONERS.—For purposes of applying this sec-  
8                   tion and paragraphs (4)(G) and (6) of section  
9                   1848(d), the Secretary shall establish procedures for  
10                  the identification of physicians and practitioners,  
11                  such as through physician or practitioner billing  
12                  units or other units, provider identification numbers,  
13                  taxpayer identification numbers, the National Pro-  
14                  vider Identifier, and unique physician identifier  
15                  numbers.

16                  “(b) VALUE-BASED PAYMENTS.—

17                  “(1) IN GENERAL.—Subject to paragraph (4),  
18                  the Secretary shall make a value-based payment to  
19                  a physician or a practitioner with respect to a year  
20                  if the Secretary determines that both the quality of  
21                  the care and the efficiency of the care provided in  
22                  that year by the physician or practitioner to individ-  
23                  uals enrolled under part B—

24                                 “(A) has substantially improved (as deter-  
25                                 mined by the Secretary) over the prior year; or

1           “(B) exceeds a threshold established by the  
2           Secretary.

3           “(2) USE OF SYSTEMS AND DATA.—

4           “(A) IN GENERAL.—In determining which  
5           physicians and practitioners qualify for a value-  
6           based payment under paragraph (1), the Sec-  
7           retary shall use—

8                   “(i) the quality measurement system  
9                   developed for this section pursuant to sec-  
10                  tion 1860E–1(a) with respect to the qual-  
11                  ity of the care provided by the physician or  
12                  practitioner; and

13                   “(ii) the comparative utilization sys-  
14                   tem developed under subsection (c) with  
15                   respect to the efficiency and appropriate-  
16                   ness of such care.

17           “(3) DETERMINATION OF AMOUNT OF AWARD  
18           AND ALLOCATION OF AWARDS.—

19           “(A) IN GENERAL.—The Secretary shall  
20           determine—

21                   “(i) the amount of a value-based pay-  
22                   ment under paragraph (1) provided to a  
23                   physician or a practitioner; and

24                   “(ii) subject to subparagraph (B), the  
25                   allocation of the total amount available

1 under subsection (e) for value-based pay-  
2 ments for any year between payments with  
3 respect to physicians and practitioners that  
4 meet the requirement under subparagraph  
5 (A) of paragraph (1) and physicians and  
6 practitioners that meet the requirement  
7 under subparagraph (B) of such para-  
8 graph.

9 “(B) REQUIREMENTS REGARDING THE  
10 AMOUNT OF FUNDING AVAILABLE FOR VALUE-  
11 BASED PAYMENTS FOR PHYSICIANS AND PRAC-  
12 TITIONERS EXCEEDING A THRESHOLD.—The  
13 Secretary shall ensure that—

14 “(i) a majority of the total amount  
15 available under subsection (e) for value-  
16 based payments for any year is provided to  
17 physicians and practitioners that are re-  
18 ceiving such payments because they meet  
19 the requirement under paragraph (1)(B);  
20 and

21 “(ii) with respect to 2010 and each  
22 subsequent year, the percentage of the  
23 total amount available under subsection (e)  
24 for value-based payments for any year that  
25 is used to make payments to physicians

1           and practitioners that meet such require-  
2           ment is greater than such percentage in  
3           the previous year.

4           “(4) REQUIREMENTS.—

5           “(A) REQUIRED SUBMISSION OF DATA.—

6           In order for a physician or a practitioner to be  
7           eligible for a value-based payment for a year,  
8           the physician or practitioner must have com-  
9           plied with the requirements under section  
10          1848(d)(6)(B)(ii) with respect to that year.

11          “(B) ATTESTATION REGARDING DATA.—In

12          order for a physician or a practitioner to be eli-  
13          gible for a value-based payment for a year, the  
14          physician or practitioner must have provided  
15          the Secretary (under procedures established by  
16          the Secretary) with an attestation that the data  
17          submitted under section 1848(d)(6)(B)(ii) with  
18          respect to that year is complete and accurate.

19          “(5) TOTAL AMOUNT OF VALUE-BASED PAY-

20          MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE

21          FUNDING.—The Secretary shall establish payment

22          amounts under paragraph (3)(A) so that, as esti-

23          mated by the Secretary, the total amount of value-

24          based payments made in a year under paragraph (1)

1 is equal to the total amount available under sub-  
2 section (e) for such payments for the year.

3 “(6) PAYMENT METHODS AND TIMING OF PAY-  
4 MENTS.—

5 “(A) IN GENERAL.—Subject to subpara-  
6 graph (B), the payment of value-based pay-  
7 ments under paragraph (1) shall be based on  
8 such a method as the Secretary determines ap-  
9 propriate.

10 “(B) TIMING.—The Secretary shall ensure  
11 that value-based payments under paragraph (1)  
12 with respect to a year are made by not later  
13 than December 31 of the subsequent year.

14 “(c) COMPARATIVE UTILIZATION SYSTEM.—

15 “(1) DEVELOPMENT.—The Secretary, in con-  
16 sultation with relevant stakeholders, shall develop a  
17 comparative utilization system for purposes of pro-  
18 viding value-based payments under subsection (b).

19 “(2) MEASURES OF EFFICIENCY AND APPRO-  
20 PRIATENESS OF CARE.—The comparative utilization  
21 system developed under paragraph (1) shall measure  
22 the efficiency and appropriateness of the care pro-  
23 vided by a physician or practitioner.

1           “(3) REQUIREMENTS FOR SYSTEM.—Under the  
2 comparative utilization system described in para-  
3 graph (1), the Secretary shall do the following:

4           “(A) MEASURES.—The Secretary shall se-  
5 lect measures of efficiency appropriateness to  
6 be used by the Secretary under the system. The  
7 Secretary may vary the measures selected under  
8 the preceding sentence by the type or specialty  
9 of the physician or practitioner. If the Secretary  
10 varies the measures for providers under the pre-  
11 ceding sentence, the Secretary shall ensure that  
12 such measures are aligned to promote coordi-  
13 nated quality of care across provider settings.

14           “(B) USE OF CLAIMS DATA FOR UTILIZA-  
15 TION PATTERNS.—

16           “(i) REVIEW OF CLAIMS DATA.—The  
17 Secretary shall review claims data with re-  
18 spect to services furnished or ordered by  
19 physicians and practitioners.

20           “(ii) USE OF MOST RECENT CLAIMS  
21 DATA.—The Secretary shall use the most  
22 recent claims data with respect to the phy-  
23 sician or practitioner that is available to  
24 the Secretary.

1           “(C) RISK ADJUSTMENT.—The Secretary  
2           shall establish procedures, as appropriate, to  
3           control for differences in beneficiary health sta-  
4           tus and beneficiary characteristics.

5           “(4) ANNUAL REPORTS.—Beginning in 2007,  
6           the Secretary shall provide physicians and practi-  
7           tioners with annual reports on the utilization of  
8           items and services under this title based upon the  
9           review of claims data under paragraph (3)(B). With  
10          respect to reports provided in 2007 and 2008, such  
11          reports are confidential and the Secretary shall not  
12          make such reports available to the public.

13          “(d) DESCRIPTION OF HOW PHYSICIANS AND PRAC-  
14          TITIONERS WOULD HAVE FARED UNDER PROGRAM.—  
15          Not later than March 1, 2009, the Secretary shall provide  
16          each physician and practitioner with a description of the  
17          Secretary’s estimate of how payments to the physician or  
18          practitioner under this title would have been affected with  
19          respect to items and services furnished during a period,  
20          as determined by the Secretary, if the program under this  
21          section (and the amendments made by paragraphs (1) and  
22          (2) of section 6110(c) of the Deficit Reduction Omnibus  
23          Reconciliation Act of 2005) had been in effect with respect  
24          to that period.

25          “(e) FUNDING.—

1           “(1) AMOUNT.—The amount available for  
2 value-based payments under this section with respect  
3 to a year shall be equal to the amount of the reduc-  
4 tion in expenditures under the Federal Supple-  
5 mentary Medical Insurance Trust Fund under sec-  
6 tion 1841 in the year as a result of the amendments  
7 made by section 6110(c)(2) of the Deficit Reduction  
8 Omnibus Reconciliation Act of 2005, as estimated  
9 by the Secretary.

10           “(2) PAYMENTS FROM TRUST FUND.—Pay-  
11 ments to physicians and practitioners under this sec-  
12 tion shall be made from the Federal Supplementary  
13 Medical Insurance Trust Fund.

14           “PLAN VALUE-BASED PURCHASING PROGRAM

15           “SEC. 1860E–4. (a) PROGRAM.—

16           “(1) IN GENERAL.—The Secretary shall estab-  
17 lish a program under which value-based payments  
18 are provided each year to Medicare Advantage orga-  
19 nizations offering Medicare Advantage plans under  
20 part C that demonstrate the provision of high qual-  
21 ity health care to enrollees under the plan.

22           “(2) PROGRAM TO BEGIN IN 2009.—The Sec-  
23 retary shall establish the program under this section  
24 so that value-based payments under subsection (b)  
25 are made with respect to 2009 and each subsequent  
26 year.

1           “(3) DEFINITIONS OF MEDICARE ADVANTAGE  
2 ORGANIZATION AND PLAN.—

3           “(A) IN GENERAL.—In this section:

4           “(i) MEDICARE ADVANTAGE ORGANI-  
5 ZATION.—The term ‘Medicare Advantage  
6 organization’ has the meaning given such  
7 term in section 1859(a)(1).

8           “(ii) MEDICARE ADVANTAGE PLAN.—  
9 The term ‘Medicare Advantage plan’ has  
10 the meaning given such term in section  
11 1859(b)(1).

12           “(B) APPLICABILITY OF PROGRAM TO  
13 MEDICARE ADVANTAGE REGIONAL AND LOCAL  
14 PLANS.—For purposes of this section, the term  
15 ‘Medicare Advantage plan’ shall include both  
16 Medicare Advantage regional plans (as defined  
17 in section 1859(b)(4)) and Medicare Advantage  
18 local plans (as defined in section 1859(b)(5)).

19           “(C) APPLICABILITY OF PROGRAM TO REA-  
20 SONABLE COST CONTRACTS.—Except for para-  
21 graphs (5) and (6) of subsection (b), for pur-  
22 poses of this section, the terms—

23           “(i) ‘Medicare Advantage organiza-  
24 tion’ and ‘organization’ include an organi-  
25 zation that is providing benefits under a

1 reasonable cost reimbursement contract  
2 under section 1876(h); and

3 “(ii) ‘Medicare Advantage plan’ and  
4 ‘plan’ include such a contract.

5 “(b) VALUE-BASED PAYMENTS.—

6 “(1) IN GENERAL.—Subject to paragraph (4),  
7 the Secretary shall make value-based payments to  
8 Medicare Advantage organizations with respect to  
9 each Medicare Advantage plan offered by the organi-  
10 zation during a year if the Secretary determines that  
11 the quality of the care provided under the plan—

12 “(A) has substantially improved (as deter-  
13 mined by the Secretary) over the prior year; or

14 “(B) exceeds a threshold established by the  
15 Secretary.

16 “(2) USE OF SYSTEM.—In determining which  
17 organizations offering Medicare Advantage plans  
18 qualify for a value-based payment under paragraph  
19 (1), the Secretary shall—

20 “(A) use the quality measurement system  
21 developed for this section pursuant to section  
22 1860E–1(a); and

23 “(B) ensure that awards are based on data  
24 from a full 12-month period (or 24-month pe-  
25 riod in the case of an award described in para-

1 graph (1)(A)), such periods determined without  
2 regard to calendar year periods.

3 “(3) DETERMINATION OF AMOUNT OF AWARD  
4 AND ALLOCATION OF AWARDS.—

5 “(A) IN GENERAL.—The Secretary shall  
6 determine—

7 “(i) the amount of a value-based pay-  
8 ment under paragraph (1) provided to an  
9 organization with respect to a plan; and

10 “(ii) subject to subparagraph (B), the  
11 allocation of the total amount available  
12 under subsection (d) for value-based pay-  
13 ments for any year between payments with  
14 respect to plans that meet the requirement  
15 under subparagraph (A) of paragraph (1)  
16 and plans that meet the requirement under  
17 subparagraph (B) of such paragraph.

18 “(B) REQUIREMENT REGARDING THE  
19 AMOUNT OF FUNDING AVAILABLE FOR VALUE-  
20 BASED PAYMENTS FOR PLANS EXCEEDING A  
21 THRESHOLD.—The Secretary shall ensure  
22 that—

23 “(i) a majority of the total amount  
24 available under subsection (d) for value-  
25 based payments for any year is provided to

1 organizations, with respect to plans offered  
2 by such organizations, that are receiving  
3 such payments because they meet the re-  
4 quirement under paragraph (1)(B); and

5 “(ii) with respect to 2010 and each  
6 subsequent year, the percentage of the  
7 total amount available under subsection (d)  
8 for value-based payments for any year that  
9 is used to make payments to organizations,  
10 with respect to plans offered by such orga-  
11 nizations, that meet such requirement is  
12 greater than such percentage in the pre-  
13 vious year.

14 “(4) USE OF PAYMENTS.—Value-based pay-  
15 ments received under this section may only be used  
16 for the following purposes:

17 “(A) To invest in quality improvement pro-  
18 grams operated by the organization with respect  
19 to the plan.

20 “(B) To enhance beneficiary benefits under  
21 the plan.

22 “(5) REQUIRED SUBMISSION OF DATA.—In  
23 order for an organization to be eligible for a value-  
24 based payment for a year with respect to a Medicare  
25 Advantage plan or a reasonable cost contract, the

1 organization must have provided for the collection,  
2 analysis, and reporting of data pursuant to sections  
3 1852(e)(3) (or submitted the data under section  
4 1876(h)(6) in the case of a reasonable cost contract)  
5 with respect to the plan or contract for the 2 years  
6 preceding that year.

7 “(6) NO EFFECT ON MEDICARE ADVANTAGE  
8 PLAN BIDS.—In order for a Medicare Advantage or-  
9 ganization to be eligible for a value-based payment  
10 for a year with respect to a Medicare Advantage  
11 plan, the organization must have provided the Sec-  
12 retary with an attestation that the program under  
13 this section, including the payment adjustments  
14 made by reason of the amendments made by section  
15 6110(d)(2)(A) of the Deficit Reduction Omnibus  
16 Reconciliation Act of 2005, had no effect on the in-  
17 tegrity and actuarial soundness of the bid submitted  
18 under section 1854 for the plan for the year.

19 “(7) TOTAL AMOUNT OF VALUE-BASED PAY-  
20 MENTS EQUAL TO TOTAL AMOUNT OF REDUCTION IN  
21 PAYMENTS.—The Secretary shall establish payment  
22 amounts under paragraph (3)(A) so that, as esti-  
23 mated by the Secretary, the total amount of value-  
24 based payments made in a year under paragraph (1)

1 is equal to the total amount available under sub-  
2 section (d) for such payments for the year.

3 “(8) PAYMENT METHODS AND TIMING OF PAY-  
4 MENTS.—

5 “(A) IN GENERAL.—Subject to subpara-  
6 graph (B), the payment of value-based pay-  
7 ments under paragraph (1) shall be based on  
8 such a method as the Secretary determines ap-  
9 propriate.

10 “(B) TIMING.—The Secretary shall ensure  
11 that value-based payments under paragraph (1)  
12 with respect to a year are made by not later  
13 than March 1 of the subsequent year.

14 “(c) DESCRIPTION OF HOW PLANS WOULD HAVE  
15 FARED UNDER PROGRAM—Not later than March 1, 2009,  
16 the Secretary shall provide each Medicare Advantage orga-  
17 nization offering a Medicare Advantage plan with a de-  
18 scription of the Secretary’s estimate of how payments  
19 under this title to such organization with respect to the  
20 plan for a period, as determined by the Secretary, would  
21 have been affected if the program under this section (and  
22 the amendments made by section 6110(d) of the Deficit  
23 Reduction Omnibus Reconciliation Act of 2005) had been  
24 in effect with respect to that period.

25 “(d) FUNDING.—

1           “(1) AMOUNT.—The amount available for  
2 value-based payments under this section with respect  
3 to a year shall be equal to the amount of the reduc-  
4 tion in expenditures under the Federal Hospital In-  
5 surance Trust Fund under section 1817 and the  
6 Federal Supplementary Medical Insurance Trust  
7 Fund under section 1841 in the year as a result of  
8 the amendments made by section 6110(d)(2) of the  
9 Deficit Reduction Omnibus Reconciliation Act of  
10 2005, as estimated by the Secretary.

11           “(2) PAYMENTS FROM TRUST FUNDS.—Pay-  
12 ments to organizations under this section shall be  
13 made from the Federal Hospital Insurance Trust  
14 Fund and the Federal Supplementary Medical In-  
15 surance Trust Fund in the same proportion as pay-  
16 ments to Medicare Advantage organizations are  
17 made from such Trust Funds under the first sen-  
18 tence of section 1853(f).

19           “ESRD PROVIDER AND FACILITY VALUE-BASED  
20 PURCHASING PROGRAM

21           “SEC. 1860E–5. (a) PROGRAM.—

22           “(1) IN GENERAL.—The Secretary shall estab-  
23 lish a program under which value-based payments  
24 are provided each year to providers of services and  
25 renal dialysis facilities that—

1           “(A) provide items and services to individ-  
2           uals with end stage renal disease who are en-  
3           rolled under part B; and

4           “(B) demonstrate the provision of high  
5           quality health care to such individuals.

6           “(2) PROGRAM TO BEGIN IN 2007.—The Sec-  
7           retary shall establish the program under this section  
8           so that value-based payments described in subsection  
9           (b) are made with respect to 2007 and each subse-  
10          quent year.

11          “(3) EXCLUSIONS FROM PROGRAM.—

12           “(A) PEDIATRIC FACILITIES.—Any renal  
13           dialysis facility at least 50 percent of whose pa-  
14           tients are individuals under 18 years of age  
15           shall not be included in the program under this  
16           section.

17           “(B) PROVIDERS AND FACILITIES CUR-  
18           RENTLY PARTICIPATING IN BUNDLED CASE-MIX  
19           DEMONSTRATION NOT INCLUDED IN PRO-  
20           GRAM.—Any provider of services or renal dialy-  
21           sis facility that is currently participating in the  
22           bundled case-mix adjusted payment system for  
23           ESRD services demonstration project under  
24           section 623(e) of the Medicare Prescription  
25           Drug, Improvement, and Modernization Act of

1           2003 (Public Law 108–173) shall not be in-  
2           cluded in the program under this section, but  
3           only for so long as the provider or facility is so  
4           participating.

5           “(b) VALUE-BASED PAYMENTS.—

6           “(1) IN GENERAL.—Subject to paragraph (4),  
7           the Secretary shall make a value-based payment to  
8           a provider of services or a renal dialysis facility with  
9           respect to a year if the Secretary determines that  
10          the quality of the care provided in that year by the  
11          provider or facility to individuals with end stage  
12          renal disease who are enrolled under part B—

13                   “(A) has substantially improved (as deter-  
14                   mined by the Secretary) over the prior year; or

15                   “(B) exceeds a threshold established by the  
16                   Secretary.

17          “(2) USE OF SYSTEM.—In determining which  
18          providers of services and renal dialysis facilities  
19          qualify for a value-based payment under paragraph  
20          (1), the Secretary shall use the quality measurement  
21          system developed for this section pursuant to section  
22          1860E–1(a).

23          “(3) DETERMINATION OF AMOUNT OF AWARD  
24          AND ALLOCATION OF AWARDS.—

1           “(A) IN GENERAL.—The Secretary shall  
2 determine—

3           “(i) the amount of a value-based pay-  
4 ment under paragraph (1) provided to a  
5 provider of services or a renal dialysis fa-  
6 cility; and

7           “(ii) subject to subparagraphs (B)  
8 and (C), the allocation of the total amount  
9 available under subsection (c) for value-  
10 based payments for any year between pay-  
11 ments with respect to providers and facili-  
12 ties that meet the requirement under sub-  
13 paragraph (A) of paragraph (1) and pro-  
14 viders and facilities that meet the require-  
15 ment under subparagraph (B) of such  
16 paragraph.

17           “(B) REQUIREMENT REGARDING AMOUNT  
18 OF FUNDING AVAILABLE FOR VALUE-BASED  
19 PAYMENTS FOR PROVIDERS AND FACILITIES  
20 EXCEEDING A THRESHOLD.—The Secretary  
21 shall ensure that—

22           “(i) a majority of the total amount  
23 available under subsection (c) for value-  
24 based payments for any year is provided to  
25 providers of services and renal dialysis fa-

1 cilities that are receiving such payments  
2 because they meet the requirement under  
3 paragraph (1)(B); and

4 “(ii) with respect to 2009 and each  
5 subsequent year, the percentage of the  
6 total amount available under subsection (c)  
7 for value-based payments for any year that  
8 is used to make payments to providers and  
9 facilities that meet such requirement is  
10 greater than such percentage in the pre-  
11 vious year.

12 “(C) ONLY VALUE-BASED PAYMENTS FOR  
13 PROVIDERS AND FACILITIES EXCEEDING A  
14 THRESHOLD IN 2007.—With respect to 2007,  
15 the entire amount available under subsection (c)  
16 for value-based payments for that year shall be  
17 used to make payments to providers of services  
18 and renal dialysis facilities that meet the re-  
19 quirement under paragraph (1)(B).

20 “(4) REQUIREMENTS.—

21 “(A) REQUIRED SUBMISSION OF DATA.—

22 “(i) IN GENERAL.—In order for a pro-  
23 vider of services or a renal dialysis facility  
24 to be eligible for a value-based payment for  
25 a year, the provider or facility must have

1 provided for the submission of data in ac-  
2 cordance with clause (ii) with respect to  
3 that year.

4 “(ii) SUBMISSION OF DATA.—For  
5 2007 and each subsequent year, each pro-  
6 vider of services and renal dialysis facility  
7 that receives payments under paragraph  
8 (12) shall submit to the Secretary such  
9 data that the Secretary determines is ap-  
10 propriate for the measurement of health  
11 outcomes and other indices of quality, in-  
12 cluding data necessary for the operation of  
13 the program under this section. Such data  
14 shall be submitted in a form and manner,  
15 and at a time, specified by the Secretary  
16 for purposes of this clause.

17 “(iii) AVAILABILITY TO THE PUB-  
18 LIC.—The Secretary shall establish proce-  
19 dures for making data submitted under  
20 clause (ii) available to the public in a clear  
21 and understandable form. Such procedures  
22 shall ensure that a provider or facility has  
23 the opportunity to review the data that is  
24 to be made public with respect to the pro-

1           vider or facility prior to such data being  
2           made public.

3           “(B) ATTESTATION REGARDING DATA.—In  
4           order for a provider of services or a renal dialy-  
5           sis facility to be eligible for a value-based pay-  
6           ment for a year, the provider or facility must  
7           have provided the Secretary (under procedures  
8           established by the Secretary) with an attesta-  
9           tion that the data submitted under subpara-  
10          graph (A)(ii) for the year is complete and accu-  
11          rate.

12          “(5) TOTAL AMOUNT OF VALUE-BASED PAY-  
13          MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE  
14          FUNDING.—The Secretary shall establish payment  
15          amounts under paragraph (3)(A) so that, as esti-  
16          mated by the Secretary, the total amount of value-  
17          based payments made in a year under paragraph (1)  
18          is equal to the total amount available under sub-  
19          section (c) for such payments for the year.

20          “(6) PAYMENT METHODS AND TIMING OF PAY-  
21          MENTS.—

22                 “(A) IN GENERAL.—Subject to subpara-  
23                 graph (B), the payment of value-based pay-  
24                 ments under paragraph (1) shall be based on



1 demonstrate the provision of high quality health care  
2 to individuals entitled to benefits under part A or  
3 enrolled under part B.

4 “(2) PROGRAM TO BEGIN IN 2008.—The Sec-  
5 retary shall establish the program under this section  
6 so that value-based payments described in subsection  
7 (b) are made with respect to 2008 and each subse-  
8 quent year.

9 “(3) HOME HEALTH AGENCY DEFINED.—In  
10 this section, the term “home health agency” has the  
11 meaning given that term in section 1861(o).

12 “(b) VALUE-BASED PAYMENTS.—

13 “(1) IN GENERAL.—Subject to paragraph (4),  
14 the Secretary shall make a value-based payment to  
15 a home health agency with respect to a year if the  
16 Secretary determines that the quality of the care  
17 provided in that year by the agency to individuals  
18 entitled to benefits under part A or enrolled under  
19 part B—

20 “(A) has substantially improved (as deter-  
21 mined by the Secretary) over the prior year; or

22 “(B) exceeds a threshold established by the  
23 Secretary.

24 “(2) USE OF SYSTEM.—In determining which  
25 home health agencies qualify for a value-based pay-

1       ment under paragraph (1), the Secretary shall use  
2       the quality measurement system developed for this  
3       section pursuant to section 1860E-1(a).

4               “(3) DETERMINATION OF AMOUNT OF AWARD  
5       AND ALLOCATION OF AWARDS.—

6               “(A) IN GENERAL.—The Secretary shall  
7       determine—

8                       “(i) the amount of a value-based pay-  
9       ment under paragraph (1) provided to a  
10      home health agency; and

11                      “(ii) subject to subparagraph (B), the  
12      allocation of the total amount available  
13      under subsection (d) for value-based pay-  
14      ments for any year between payments with  
15      respect to agencies that meet the require-  
16      ment under subparagraph (A) of para-  
17      graph (1) and agencies that meet the re-  
18      quirement under subparagraph (B) of such  
19      paragraph.

20               “(B) REQUIREMENTS REGARDING THE  
21      AMOUNT OF FUNDING AVAILABLE FOR VALUE-  
22      BASED PAYMENTS FOR AGENCIES EXCEEDING A  
23      THRESHOLD.—The Secretary shall ensure  
24      that—

1           “(i) a majority of the total amount  
2           available under subsection (d) for value-  
3           based payments for any year is provided to  
4           home health agencies that are receiving  
5           such payments because they meet the re-  
6           quirement under paragraph (1)(B); and

7           “(ii) with respect to 2009 and each  
8           subsequent year, the percentage of the  
9           total amount available under subsection (d)  
10          for value-based payments for any year that  
11          is used to make payments to agencies that  
12          meet such requirement is greater than  
13          such percentage in the previous year.

14          “(4) REQUIREMENTS.—

15               “(A) REQUIRED SUBMISSION OF DATA.—

16          In order for a home health agency to be eligible  
17          for a value-based payment for a year, the agen-  
18          cy must have complied with the requirements  
19          under section 1895(b)(3)(B)(v)(II) with respect  
20          to that year.

21               “(B) ATTESTATION REGARDING DATA.—In

22          order for a home health agency to be eligible for  
23          a value-based payment for a year, the agency  
24          must have provided the Secretary (under proce-  
25          dures established by the Secretary) with an at-

1           testation that the data submitted under section  
2           1895(b)(3)(B)(v)(II) with respect to that year  
3           is complete and accurate.

4           “(5) TOTAL AMOUNT OF VALUE-BASED PAY-  
5           MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE  
6           FUNDING.—The Secretary shall establish payment  
7           amounts under paragraph (3)(A) so that, as esti-  
8           mated by the Secretary, the total amount of value-  
9           based payments made in a year under paragraph (1)  
10          is equal to the total amount available under sub-  
11          section (d) for such payments for the year.

12          “(6) PAYMENT METHODS AND TIMING OF PAY-  
13          MENTS.—

14                 “(A) IN GENERAL.—Subject to subpara-  
15                 graph (B), the payment of value-based pay-  
16                 ments under paragraph (1) shall be based on  
17                 such a method as the Secretary determines ap-  
18                 propriate.

19                 “(B) TIMING.—The Secretary shall ensure  
20                 that value-based payments under paragraph (1)  
21                 with respect to a year are made by not later  
22                 than December 31 of the subsequent year.

23                 “(c) DESCRIPTION OF HOW AGENCIES WOULD HAVE  
24                 FARED UNDER PROGRAM.—Not later than January 1,  
25                 2008, the Secretary shall provide each home health agency

1 with a description of the Secretary's estimate of how pay-  
2 ments to the agency under this title would have been af-  
3 fected with respect to items and services furnished during  
4 a period, as determined by the Secretary, if the program  
5 under this section (and the amendments made by section  
6 6110(f) of the Deficit Reduction Omnibus Reconciliation  
7 Act of 2005) had been in effect with respect to that period.

8 “(d) FUNDING.—

9 “(1) AMOUNT.—The amount available for  
10 value-based payments under this section with respect  
11 to a year shall be equal to the amount of the reduc-  
12 tion in expenditures under the Federal Hospital In-  
13 surance Trust Fund under section 1817 and Federal  
14 Supplementary Medical Insurance Trust Fund under  
15 section 1841 in the year as a result of the applica-  
16 tion of section 1895(b)(3)(D), as estimated by the  
17 Secretary.

18 “(2) PAYMENTS FROM TRUST FUND.—Pay-  
19 ments to home health agencies under this section  
20 shall be made from the Federal Hospital Insurance  
21 Trust Fund and Federal Supplementary Medical In-  
22 surance Trust Fund, in the same proportion as pay-  
23 ments for home health services are made from such  
24 trust funds.”.

25 (b) HOSPITALS.—

1           (1) VOLUNTARY SUBMISSION OF HOSPITAL  
2 QUALITY DATA.—

3           (A) UPDATE FOR HOSPITALS THAT SUB-  
4 MIT QUALITY DATA.—Section 1886(b)(3)(B)  
5 (42 U.S.C. 1395ww(b)(3)(B)) is amended—

6           (i) in clause (vii)—

7                 (I) in subclause (I), by striking  
8 “for each of fiscal years 2005 through  
9 2007” and inserting “for fiscal years  
10 2005 and 2006”; and

11                (II) in subclause (II), by striking  
12 “Each” and inserting “For fiscal  
13 years 2005 and 2006, each”; and

14           (ii) by adding at the end the following  
15 new clause:

16                “(viii)(I) For purposes of clause  
17 (i)(XX), for fiscal year 2007 and each sub-  
18 sequent fiscal year, in the case of a sub-  
19 section (d) hospital that does not submit  
20 data in accordance with subclause (II) with  
21 respect to such a fiscal year, the applicable  
22 percentage increase under such clause for  
23 such fiscal year shall be reduced by 2 per-  
24 centage points. Such reduction shall apply  
25 only with respect to the fiscal year in-

1           involved, and the Secretary shall not take  
2           into account such reduction in computing  
3           the applicable percentage increase under  
4           clause (i)(XX) for a subsequent fiscal year.

5           “(II) For fiscal year 2007 and each  
6           subsequent fiscal year, each subsection (d)  
7           hospital shall submit to the Secretary such  
8           data that the Secretary determines is ap-  
9           propriate for the measurement of health  
10          care quality, including data necessary for  
11          the operation of the PPS hospital value-  
12          based purchasing program under section  
13          1860E-2. Such data shall be submitted in  
14          a form and manner, and at a time, speci-  
15          fied by the Secretary for purposes of this  
16          clause.

17          “(III) The Secretary shall establish  
18          procedures for making data submitted  
19          under subclause (II) available to the public  
20          in a clear and understandable form. Such  
21          procedures shall ensure that a subsection  
22          (d) hospital has the opportunity to review  
23          the data that is to be made public with re-  
24          spect to the hospital prior to such data  
25          being made public.”.

1 (B) CONFORMING AMENDMENTS.—Section  
 2 1886(b)(3)(B)(i) (42 U.S.C.  
 3 1395ww(b)(3)(B)(i)) is amended—

4 (i) in subclause (XIX), by striking  
 5 “2007” and inserting “2006”; and

6 (ii) in subclause (XX)—

7 (I) by striking “2008” and in-  
 8 serting “2007”; and

9 (II) by inserting “subject to  
 10 clause (viii),” after “fiscal year,”.

11 (2) REDUCTION IN PAYMENTS IN ORDER TO  
 12 FUND PROGRAM.—

13 (A) REDUCTION IN PAYMENTS.—Section  
 14 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is  
 15 amended—

16 (i) in clause (iv), by striking “5 per-  
 17 cent nor more than 6 percent” and insert-  
 18 ing “the applicable lower percent nor more  
 19 than the applicable upper percent”; and

20 (ii) by adding at the end the following  
 21 new clause:

22 “(vii) For purposes of clause (iv)—

23 “(I) for fiscal years prior to 2007, the ‘lower  
 24 percent’ is 5.0 percent and the ‘upper percent’ is 6.0  
 25 percent;

1           “(II) for fiscal year 2007, the ‘lower percent’ is  
2           4.0 percent and the ‘upper percent’ is 5.0 percent;

3           “(III) for fiscal year 2008, the ‘lower percent’  
4           is 3.75 percent and the ‘upper percent’ is 4.75 per-  
5           cent;

6           “(IV) for fiscal year 2009, the ‘lower percent’  
7           is 3.5 percent and the ‘upper percent’ is 4.5 percent;

8           “(V) for fiscal year 2010, the ‘lower percent’ is  
9           3.25 percent and the ‘upper percent’ is 4.25 percent;  
10          and

11          “(VI) for fiscal year 2011 and each subsequent  
12          fiscal year, the ‘lower percent’ is 3.0 percent and the  
13          ‘upper percent’ is 4.0 percent.”.

14                   (B) CONTINUATION OF CURRENT LEVEL  
15                   OF REDUCTIONS TO THE AVERAGE STANDARD-  
16                   IZED AMOUNT.—Section 1886(d)(3)(B) (42  
17                   U.S.C. 1395ww(d)(3)(B)) is amended to read  
18                   as follows:

19                   “(B) REDUCING FOR VALUE OF OUTLIER PAY-  
20                   MENTS AND FOR FUNDING OF HOSPITAL VALUE-  
21                   BASED PURCHASING PROGRAM.—

22                   “(i) IN GENERAL.—The Secretary shall re-  
23                   duce each of the average standardized amounts  
24                   determined under subparagraph (A) by a factor  
25                   equal to a fraction—

1           “(I) the numerator of which is the  
2           sum of—

3                   “(aa) the additional payments  
4                   described in paragraph (5)(A) (relat-  
5                   ing to outlier payments); and

6                   “(bb) the applicable percent of  
7                   the total payments projected or esti-  
8                   mated to be made based on DRG pro-  
9                   spective payment rates for discharges  
10                  in that year; and

11                  “(II) the denominator of which is the  
12                  total payments projected or estimated to  
13                  be made based on DRG prospective pay-  
14                  ment rates for discharges in that year.

15                  “(ii) APPLICABLE PERCENT.—For pur-  
16                  poses of clause (i)(I)(bb), the term ‘applicable  
17                  percent’ means—

18                          “(I) for fiscal years prior to fiscal  
19                          year 2007, 0 percent;

20                          “(II) for fiscal year 2007, 1.0 percent;

21                          “(III) for fiscal year 2008, 1.25 per-  
22                          cent;

23                          “(IV) for fiscal year 2009, 1.5 per-  
24                          cent;

1                   “(V) for fiscal year 2010, 1.75 per-  
2                   cent; and

3                   “(VI) for fiscal year 2011 and each  
4                   subsequent year, 2.0 percent.”.

5                   (3) VALUE-BASED PURCHASING DEMONSTRATION PROGRAM FOR CRITICAL ACCESS HOSPITALS.—

6                   (A) ESTABLISHMENT.—Not later than 6  
7                   months after the date of enactment of this Act,  
8                   the Secretary shall establish a 2-year dem-  
9                   onstration program under which the Secretary  
10                  establishes a value-based purchasing program  
11                  under the Medicare program under title XVIII  
12                  of the Social Security Act for critical access  
13                  hospitals (as defined in section 1861(mm)(1) of  
14                  such Act (42 U.S.C. 1395x(mm)(1)) in order to  
15                  test innovative methods of measuring and re-  
16                  warding quality health care furnished by such  
17                  hospitals.  
18                  hospitals.

19                  (B) SITES.—The Secretary shall conduct  
20                  the demonstration program at 6 critical access  
21                  hospitals. The Secretary shall ensure that such  
22                  hospitals are representative of the spectrum of  
23                  such hospitals that participate in the Medicare  
24                  program.

1           (C) WAIVER AUTHORITY.—The Secretary  
2           may waive such requirements of titles XI and  
3           XVIII of the Social Security Act as may be nec-  
4           essary to carry out the demonstration program.

5           (D) FUNDING.—The Secretary shall pro-  
6           vide for the transfer from the Federal Hospital  
7           Insurance Trust Fund under section 1817 of  
8           the Social Security Act (42 U.S.C. 1395i) of  
9           such funds as are necessary for the costs of car-  
10          rying out the demonstration program.

11          (E) REPORT.—Not later than 6 months  
12          after the demonstration program is completed,  
13          the Secretary shall submit to Congress a report  
14          on the demonstration program together with  
15          recommendations on the establishment of a per-  
16          manent value-based purchasing program under  
17          the Medicare program for critical access hos-  
18          pitals and recommendations for such other leg-  
19          islation or administrative action as the Sec-  
20          retary determines appropriate.

21          (c) PHYSICIANS AND PRACTITIONERS.—

22               (1) VOLUNTARY SUBMISSION OF PHYSICIAN  
23               AND PRACTITIONER QUALITY DATA.—

24                       (A) UPDATE FOR PHYSICIANS AND PRACTI-  
25                       TIONERS THAT SUBMIT QUALITY DATA.—Sec-

1           tion 1848(d)(4) (42 U.S.C. 1395w-4(d)(4)) is  
2           amended by adding at the end the following  
3           new subparagraph:

4                   “(G) ADJUSTMENT IF QUALITY DATA NOT  
5           SUBMITTED.—

6                           “(i) ADJUSTMENT.—For 2007 and  
7                           each subsequent year, in the case of serv-  
8                           ices furnished by a physician or a practi-  
9                           tioner (as defined in section 1860E-  
10                           3(a)(3)) that does not submit data in ac-  
11                           cordance with clause (ii) with respect to  
12                           such a year, the update otherwise deter-  
13                           mined under subparagraph (A) shall be re-  
14                           duced by 2 percentage points. Such reduc-  
15                           tion shall apply only with respect to the  
16                           year involved, and the Secretary shall not  
17                           take into account such reduction in com-  
18                           puting the conversion factor for a subse-  
19                           quent year.

20                           “(ii) SUBMISSION OF QUALITY  
21                           DATA.—For 2007 and each subsequent  
22                           year, each physician and practitioner (as  
23                           defined in section 1860E-3(a)(3)) shall  
24                           submit to the Secretary such data that the  
25                           Secretary determines is appropriate for the

1 measurement of health outcomes and other  
2 indices of quality, including data necessary  
3 for the operation of the physician and  
4 practitioner value-based purchasing pro-  
5 gram under section 1860E-3. Such data  
6 shall be submitted in a form and manner,  
7 and at a time, specified by the Secretary  
8 for purposes of this subparagraph.

9 “(iii) AVAILABLE TO THE PUBLIC.—

10 “(I) IN GENERAL.—Subject to  
11 subclauses (II) and (III), the Sec-  
12 retary shall establish procedures for  
13 making data submitted under clause  
14 (ii), with respect to items and services  
15 furnished on or after January 1,  
16 2008, available to the public in 3  
17 phases as follows:

18 “(aa) PHASE I.—During  
19 phase I, the Secretary shall make  
20 available to the public the iden-  
21 tity of physicians and practi-  
22 tioners that are submitting such  
23 data.

24 “(bb) PHASE II.—During  
25 phase II, the Secretary shall

1           make available to the public the  
2           identity of physicians and practi-  
3           tioners that are receiving a value-  
4           based payment under section  
5           1860E-3.

6           “(cc) PHASE III.—During  
7           phase III, the Secretary shall  
8           make data submitted under  
9           clause (ii) available to the public  
10          in a clear and understandable  
11          form.

12          “(II) REVIEW.—The procedures  
13          established under subclause (I) shall  
14          ensure that a physician or practitioner  
15          has the opportunity to review the data  
16          that is to be made public with respect  
17          to the physician or practitioner under  
18          subclause (I)(cc) prior to such data  
19          being made public.

20          “(III) EXCEPTIONS.—The Sec-  
21          retary shall establish exceptions to the  
22          requirement for making data available  
23          to the public under subclause (I). In  
24          providing for such exceptions, the Sec-  
25          retary shall take into account the size

1 and specialty representation of the  
2 practice involved.”.

3 (B) CONFORMING AMENDMENT.—Section  
4 1848(d)(4)(A) (42 U.S.C. 1395w-4(d)(4)(A)) is  
5 amended, in the matter preceding clause (i), by  
6 striking “subparagraph (F)” and inserting  
7 “subparagraphs (F) and (G)”.

8 (2) REDUCTION IN CONVERSION FACTOR FOR  
9 PHYSICIANS AND PRACTITIONERS THAT SUBMIT  
10 QUALITY DATA IN ORDER TO FUND PROGRAM.—

11 (A) IN GENERAL.—Section 1848(d) (42  
12 U.S.C. 1395w-4(d)) is amended by adding at  
13 the end the following new paragraph:

14 “(6) REDUCTION IN CONVERSION FACTOR FOR  
15 PHYSICIANS AND PRACTITIONERS IN ORDER TO  
16 FUND VALUE-BASED PURCHASING PROGRAM.—

17 “(A) IN GENERAL.—For 2009 and each  
18 subsequent year, the single conversion factor  
19 otherwise applicable under this subsection to  
20 services furnished in the year by a physician or  
21 a practitioner (as defined in section 1860E-  
22 3(a)(3)) that complies with the requirements  
23 under paragraph (4)(G)(ii) for the year (deter-  
24 mined after application of the update under

1 paragraph (4)) shall be reduced by the applica-  
2 ble percent.

3 “(B) APPLICABLE PERCENT.—For pur-  
4 poses of subparagraph (A), the term ‘applicable  
5 percent’ means—

6 “(i) for 2009, 1.0 percent;

7 “(ii) for 2010, 1.25 percent;

8 “(iii) for 2011, 1.5 percent;

9 “(iv) for 2012, 1.75 percent; and

10 “(v) for 2013 and each subsequent  
11 year, 2.0 percent.”.

12 (B) CONFORMING AMENDMENT.—Section  
13 1848(d)(1)(A) (42 U.S.C. 1395w-4(d)(1)(A)) is  
14 amended by striking “The conversion factor”  
15 and inserting “Subject to paragraph (6), the  
16 conversion factor”.

17 (d) PLANS.—

18 (1) SUBMISSION OF QUALITY DATA.—

19 (A) MEDICARE ADVANTAGE ORGANIZA-  
20 TIONS.—Section 1852(e) (42 U.S.C. 1395w-  
21 22(e)), as amended by section 722 of the Medi-  
22 care Prescription Drug, Improvement, and  
23 Modernization Act of 2003 (Public Law 108-  
24 173; 117 Stat. 2347), is amended—

- 1 (i) in paragraph (1), by striking “an  
2 MA private fee-for-service plan or”; and
- 3 (ii) in paragraph (3)—
- 4 (I) in subparagraph (A)—
- 5 (aa) in clause (i), by adding  
6 at the end the following new sen-  
7 tence: “Such data shall include  
8 data necessary for the operation  
9 of the plan value-based pur-  
10 chasing program under section  
11 1860E-4.”;
- 12 (bb) by redesignating clause  
13 (iv) as clause (vi); and
- 14 (cc) by inserting after clause  
15 (iii) the following new clauses:
- 16 “(iv) APPLICATION TO MA PRIVATE  
17 FEE-FOR-SERVICE PLANS.—The Secretary  
18 shall establish as appropriate by regulation  
19 requirements for the collection, analysis,  
20 and reporting of data that permits the  
21 measurement of health outcomes and other  
22 indices of quality for MA organizations  
23 with respect to MA private fee-for-service  
24 plans.”.

1                   “(v) AVAILABILITY TO THE PUBLIC.—  
2                   The Secretary shall establish procedures  
3                   for making data reported under this sub-  
4                   paragraph available to the public in a clear  
5                   and understandable form. Such procedures  
6                   shall ensure that an MA organization has  
7                   the opportunity to review the data that is  
8                   to be made public with respect to the plan  
9                   offered by the organization prior to such  
10                  data being made public.”; and

11                                   (II) in subparagraph (B)—  
12   (aa) in clause (i), by striking  
13   “The” and inserting “Subject to  
14   clause (ii), the”; and  
15   (bb) by striking clause (ii)  
16   and inserting the following new  
17   clause:

18                                   “(ii) CHANGES IN TYPES OF DATA.—  
19                                   Subject to clause (iii), the Secretary may  
20                                   only change the types of data that are re-  
21                                   quired to be submitted under subpara-  
22                                   graph (A) after submitting to Congress a  
23                                   report on the reasons for such changes  
24                                   that was prepared—

1                   “(I) in the case of data necessary  
2                   for the operation of the plan value-  
3                   based purchasing program under sec-  
4                   tion 1860E-4, after the requirements  
5                   under subsections (c) and (d) of sec-  
6                   tion 1860E-1 have been complied  
7                   with; and

8                   “(II) in the case of any other  
9                   data, in consultation with MA organi-  
10                  zations and private accrediting bod-  
11                  ies.”.

12                  (B) ELIGIBLE ENTITIES WITH REASON-  
13                  ABLE COST CONTRACTS.—Section 1876(h) (42  
14                  U.S.C. 1395mm(h)) is amended by adding at  
15                  the end the following new paragraph:

16                  “(6)(A) With respect to plan years beginning on or  
17                  after January 1, 2006, an eligible entity with a reasonable  
18                  cost reimbursement contract under this subsection shall  
19                  submit to the Secretary such data that the Secretary de-  
20                  termines is appropriate for the measurement of health out-  
21                  comes and other indices of quality, including data nec-  
22                  essary for the operation of the plan value-based pur-  
23                  chasing program under section 1860E-4. Such data shall  
24                  be submitted in a form and manner, and at a time, speci-  
25                  fied by the Secretary for purposes of this subparagraph.

1       “(B) The Secretary shall establish procedures for  
2 making data reported under subparagraph (A) available  
3 to the public in a clear and understandable form. Such  
4 procedures shall ensure that an eligible entity has the op-  
5 portunity to review the data that is to be made public with  
6 respect to the contract prior to such data being made pub-  
7 lic.”.

8               (C) EFFECTIVE DATE.—The amendments  
9 made by this subsection shall apply to plan  
10 years beginning on or after January 1, 2006.

11              (D) SENSE OF THE SENATE.—It is the  
12 sense of the Senate that, in establishing the  
13 timeframes for Medicare Advantage organiza-  
14 tions and entities with a reasonable cost reim-  
15 bursement contract under section 1876(h) of  
16 the Social Security Act (42 U.S.C. 1395mm(h))  
17 to report quality data under sections 1852(e)(3)  
18 and 1876(h)(6), respectively, of such Act, as  
19 added by this section, the Secretary should take  
20 into account other timeframes for reporting  
21 quality data that such organizations and enti-  
22 ties are subject to under other Federal and  
23 State programs and in the commercial market.

24              (2) REDUCTION IN PAYMENTS TO ORGANIZA-  
25 TIONS IN ORDER TO FUND PROGRAM.—

1 (A) MEDICARE ADVANTAGE PAYMENTS.—

2 (i) IN GENERAL.—Section 1853(a)(1)  
 3 (42 U.S.C. 1395w-23(a)(1)), as amended  
 4 by section 222(e) of the Medicare Prescrip-  
 5 tion Drug, Improvement, and Moderniza-  
 6 tion Act of 2003 (Public Law 108-173;  
 7 117 Stat. 2200), is amended—

8 (I) in clauses (i) and (ii) of sub-  
 9 paragraph (B), by inserting “and, for  
 10 2009 and each subsequent year, ex-  
 11 cept in the case of an MSA plan or an  
 12 MA plan for which there was no con-  
 13 tract under section 1857 during either  
 14 of the preceding 2 years, reduced by  
 15 the applicable percent (as defined in  
 16 subparagraph (I))” after “(G)”; and

17 (II) by adding at the end the fol-  
 18 lowing new subparagraph:

19 “(I) APPLICABLE PERCENT.—For pur-  
 20 poses of clauses (i) and (ii) of subparagraph  
 21 (B), the term ‘applicable percent’ means—

22 “(i) for 2009, 1.0 percent;

23 “(ii) for 2010, 1.25 percent;

24 “(iii) for 2011, 1.5 percent;

25 “(iv) for 2012, 1.75 percent; and

1           “(v) for 2013 and each subsequent  
2           year, 2.0 percent.”.

3           (iii) REDUCTIONS IN PAYMENTS DO  
4           NOT AFFECT THE REBATE FOR BIDS  
5           BELOW THE BENCHMARK.—The amend-  
6           ments made by subparagraph (A) shall not  
7           be construed to have any effect on—

8                       (I) the determination of whether  
9                       a Medicare Advantage plan has aver-  
10                      age per capita monthly savings de-  
11                      scribed in paragraph (3)(C) or (4)(C)  
12                      of section 1854(b) of the Social Secu-  
13                      rity Act (42 U.S.C. 1395w–24(b)); or

14                      (II) the amount of such savings.

15           (A) REASONABLE COST CONTRACT PAY-  
16           MENTS.—Section 1876(h) (42 U.S.C.  
17           1395mm(h)), as amended by subsection (a)(2),  
18           is amended by adding at the end the following  
19           new paragraph:

20           “(7) Notwithstanding the preceding provisions of this  
21           subsection, the Secretary shall reduce each payment to an  
22           eligible organization under this subsection with respect to  
23           benefits provided on or after January 1, 2009, by an  
24           amount equal to the applicable percent (as defined in sec-  
25           tion 1853(a)(1)(I)) of the payment amount.”.

1           (3) REQUIREMENT FOR REPORTING ON USE OF  
2 VALUE-BASED PAYMENTS.—

3           (A) MA PLANS.—Section 1854(a) (42  
4 U.S.C. 1395w-24(a)), as amended by section  
5 222(a) of the Medicare Prescription Drug, Im-  
6 provement, and Modernization Act of 2003  
7 (Public Law 108-173; 117 Stat. 2193), is  
8 amended—

9           (i) in paragraph (1)(A)(i), by striking  
10 “or (6)(A)” and inserting “(6)(A), or (7)”;

11           and

12           (ii) by adding at the end the fol-  
13 lowing:

14           “(7) SUBMISSION OF INFORMATION OF HOW  
15 VALUE-BASED PAYMENTS WILL BE USED.—For an  
16 MA plan for a plan year beginning on or after Janu-  
17 ary 1, 2011, the information described in this para-  
18 graph is a description of how the organization offer-  
19 ing the plan will use any value-based payments that  
20 the organization received under section 1860E-4  
21 with respect to the plan for the year preceding the  
22 year in which such information is submitted.”.

23           (B) REASONABLE COST CONTRACTS.—Sec-  
24 tion 1876(h) (42 U.S.C. 1395mm(h)), as

1           amended by subsection (c)(2), is amended by  
2           adding at the end the following new paragraph:

3           “(8) Not later than July 1 of each year (beginning  
4 in 2010), any eligible entity with a reasonable cost reim-  
5 bursement contract under this subsection that received a  
6 value-based payment under section 1860E-4 with respect  
7 to the contract for the preceding year shall submit to the  
8 Secretary a report containing a description of how the or-  
9 ganization will use such payments under the contract.”.

10       (e) ESRD PROVIDERS AND FACILITIES.—

11           (1) VOLUNTARY SUBMISSION OF QUALITY  
12 DATA.—Section 1881(b) (42 U.S.C. 1395rr(b)) is  
13 amended by adding at the end the following new  
14 paragraph:

15           “(14) By not later than July 31, 2006, the Sec-  
16 retary shall establish procedures under which pro-  
17 viders of services and renal dialysis facilities that re-  
18 ceive payments under paragraph (12) or (13) may  
19 submit to the Secretary data that permits the meas-  
20 urement of health outcomes and other indices of  
21 quality.”.

22           (2) REDUCTION IN CASE-MIX ADJUSTED PRO-  
23 SPECTIVE PAYMENT AMOUNT IN ORDER TO FUND  
24 PROGRAM.—Section 1881(b)(12) (42 U.S.C.  
25 1395rr(b)(12)) is amended—

1 (A) by redesignating subparagraph (G) as  
2 subparagraph (H); and

3 (B) by inserting after subparagraph (F)  
4 the following new subparagraph:

5 “(G)(i) In the case of any payment made under  
6 this paragraph for an item or service furnished on  
7 or after January 1, 2007, such payment shall be re-  
8 duced by the applicable percent. The preceding sen-  
9 tence shall not apply to a payment for an item or  
10 service furnished by a provider of services or a renal  
11 dialysis facility that is excluded from the program  
12 under section 1860E–5 by reason of subsection  
13 (a)(3) of such section at the time the item or service  
14 is furnished.

15 “(ii) For purposes of clause (i), the term ‘appli-  
16 cable percent’ means—

17 “(I) for 2007, 1.0 percent;

18 “(II) for 2008, 1.25 percent;

19 “(III) for 2009, 1.5 percent;

20 “(IV) for 2010, 1.75 percent; and

21 “(V) for 2011 and each subsequent year,  
22 2.0 percent.”.

23 (3) VALUE-BASED PURCHASING UNDER THE  
24 DEMONSTRATION OF BUNDLED CASE-MIX ADJUSTED  
25 PAYMENT SYSTEM FOR ESRD SERVICES.—Section

1 623(e) of the Medicare Prescription Drug, Improve-  
 2 ment, and Modernization Act of 2003 (42 U.S.C.  
 3 1395rr note) is amended by adding at the end the  
 4 following new paragraph:

5 “(7) VALUE-BASED PURCHASING PROGRAM.—

6 As part of the demonstration project under this sub-  
 7 section, the Secretary shall, beginning January 1,  
 8 2007, implement a value-based purchasing program  
 9 for providers and facilities participating in the dem-  
 10 onstration project. The Secretary shall implement  
 11 such value-based purchasing program in a similar  
 12 manner as the ESRD provider and facility value-  
 13 based purchasing program is implemented under  
 14 section 1860E–5 of the Social Security Act, includ-  
 15 ing the funding of such program.”.

16 (f) HOME HEALTH AGENCIES.—

17 (1) UPDATE FOR HOME HEALTH AGENCIES  
 18 THAT SUBMIT QUALITY DATA.—Section  
 19 1895(b)(3)(B) (42 U.S.C.fff(b)(3)(B)) is amended—

20 (A) in clause (ii)(IV), by inserting “subject  
 21 to clause (v),” after “subsequent year,”; and

22 (B) by adding at the end the following new  
 23 clause:

24 “(v) ADJUSTMENT IF QUALITY DATA  
 25 NOT SUBMITTED.—

1           “(I) ADJUSTMENT.—For pur-  
2           poses of clause (ii)(IV), for 2007 and  
3           each subsequent year, in the case of a  
4           home health agency that does not sub-  
5           mit data in accordance with subclause  
6           (II) with respect to such a year, the  
7           home health market basket percentage  
8           increase applicable under such clause  
9           for such year shall be reduced by 2  
10          percentage points. Such reduction  
11          shall apply only with respect to the  
12          year involved, and the Secretary shall  
13          not take into account such reduction  
14          in computing the prospective payment  
15          amount under this section for a subse-  
16          quent year.

17          “(II) SUBMISSION OF QUALITY  
18          DATA.—For 2007 and each subse-  
19          quent year, each home health agency  
20          shall submit to the Secretary such  
21          data that the Secretary determines is  
22          appropriate for the measurement of  
23          health care quality, including data  
24          necessary for the operation of the  
25          home health agency value-based pur-

1 chasing program under section  
2 1860E-6. Such data shall be sub-  
3 mitted in a form and manner, and at  
4 a time, specified by the Secretary for  
5 purposes of this clause.

6 “(III) PUBLIC AVAILABILITY OF  
7 DATA SUBMITTED.—The Secretary  
8 shall establish procedures for making  
9 data submitted under subclause (II)  
10 available to the public in a clear and  
11 understandable form. Such procedures  
12 shall ensure that a home health agen-  
13 cy has the opportunity to review the  
14 data that is to be made public with  
15 respect to the agency prior to such  
16 data being made public.”.

17 (2) REDUCTION IN STANDARD PROSPECTIVE  
18 PAYMENT AMOUNT FOR AGENCIES THAT SUBMIT  
19 QUALITY DATA IN ORDER TO FUND PROGRAM.—Sec-  
20 tion 1895(b)(3) (42 U.S.C. 1395fff(b)(3)) is amend-  
21 ed by adding at the end the following new subpara-  
22 graph:

23 “(D) REDUCTION IN ORDER TO FUND  
24 VALUE-BASED PURCHASING PROGRAM.—

1           “(i) IN GENERAL.—For 2008 and  
 2           each subsequent year, in the case of a  
 3           home health agency that complies with the  
 4           submission requirements under section  
 5           1895(b)(3)(B)(v)(II) for the year, the  
 6           standard prospective payment amount (or  
 7           amounts) otherwise applicable under this  
 8           paragraph for the year shall be reduced by  
 9           the applicable percent.

10           “(ii) APPLICABLE PERCENT.—For  
 11           purposes of clause (i), the term ‘applicable  
 12           percent’ means—

13                   “(I) for 2008, 1.0 percent;

14                   “(II) for 2009, 1.25 percent;

15                   “(III) for 2010, 1.5 percent;

16                   “(IV) for 2011, 1.75 percent;

17                   and

18                   “(V) for 2012 and each subse-  
 19                   quent year, 2.0 percent.”.

20           (g) SKILLED NURSING FACILITIES.—

21                   (1) REQUIREMENT FOR SKILLED NURSING FA-  
 22                   CILITIES TO REPORT FUNCTIONAL CAPACITY OF  
 23                   MEDICARE RESIDENTS UPON ADMISSION AND DIS-  
 24                   CHARGE.—Section 1819(b) (42 U.S.C. 1395i-3(b))

1 is amended by adding at the end the following new  
2 paragraph:

3 “(9) REPORTING FUNCTIONAL CAPACITY AT AD-  
4 MISSION AND DISCHARGE.—

5 “(A) IN GENERAL.—On and after October  
6 1, 2006, a skilled nursing facility must submit  
7 a report to the Secretary on the functional ca-  
8 pacity of each resident who is entitled to bene-  
9 fits under this part at the time of—

10 “(i) the admission of such resident;

11 and

12 “(ii) the discharge of such resident.

13 “(B) TIMEFRAME.—A report required  
14 under subparagraph (A) shall be submitted  
15 within 10 days of the admission or discharge,  
16 as the case may be.”.

17 (2) VOLUNTARY SUBMISSION OF SKILLED  
18 NURSING FACILITY QUALITY DATA.—Section  
19 1888(e)(4)(E) (42 U.S.C. 1395yy(e)(4)(E)) is  
20 amended—

21 (A) in clause (ii)(IV), by inserting “subject  
22 to clause (iii),” after “subsequent fiscal year,”;  
23 and

24 (B) by adding at the end the following new  
25 clause:

1                   “(iii) ADJUSTMENT IF QUALITY DATA  
2 NOT SUBMITTED.—

3                   “(I) ADJUSTMENT.—For pur-  
4 poses of clause (ii)(IV), for fiscal year  
5 2009 and each subsequent fiscal year,  
6 in the case of a skilled nursing facility  
7 that does not submit data in accord-  
8 ance with subclause (II) with respect  
9 to such a fiscal year, the skilled nurs-  
10 ing facility market basket percentage  
11 change applicable under such clause  
12 for such fiscal year shall be reduced  
13 by 2 percentage points. Such reduc-  
14 tion shall apply only with respect to  
15 the fiscal year involved, and the Sec-  
16 retary shall not take into account  
17 such reduction in computing the Fed-  
18 eral per diem rate under this section  
19 for a subsequent fiscal year.

20                   “(II) SUBMISSION OF QUALITY  
21 DATA.—For fiscal year 2008 and each  
22 subsequent fiscal year, each skilled  
23 nursing facility shall submit to the  
24 Secretary such data that the Sec-  
25 retary determines, after conducting a

1 study in consultation with the entities  
2 described in subsections (c)(1), (c)(2),  
3 and (d) of section 1860E-1, is appro-  
4 priate for the measurement of health  
5 outcomes and other indices of quality.  
6 Such data shall be submitted in a  
7 form and manner, and at a time,  
8 specified by the Secretary for pur-  
9 poses of this clause.

10 “(III) PUBLIC AVAILABILITY OF  
11 DATA SUBMITTED.—The Secretary  
12 shall establish procedures for making  
13 data submitted under subclause (II)  
14 available to the public in a clear and  
15 understandable form. Such procedures  
16 shall ensure that a facility has the op-  
17 portunity to review the data that is to  
18 be made public with respect to the fa-  
19 cility prior to such data being made  
20 public.”.

21 (h) CONFORMING REFERENCES TO PREVIOUS PART  
22 E.—Any reference in law (in effect before the date of the  
23 enactment of this Act) to part E of title XVIII of the So-  
24 cial Security Act is deemed a reference to part F of such  
25 title (as in effect after such date).

1 **SEC. 6111. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEU-**  
 2 **TRALITY IN DETERMINING THE AMOUNT OF**  
 3 **PAYMENTS TO MEDICARE ADVANTAGE ORGA-**  
 4 **NIZATIONS.**

5 (a) IN GENERAL.—Section 1853 (42 U.S.C. 1395w–  
 6 23) is amended—

7 (1) in subsection (j)(1)—

8 (A) in subparagraph (A)—

9 (i) by inserting “(or, beginning with  
 10 2007,  $\frac{1}{12}$  of the applicable amount deter-  
 11 mined under subsection (k)(1))” after  
 12 “1853(c)(1)”; and

13 (ii) by inserting “(for years before  
 14 2007)” after “adjusted as appropriate”;

15 (B) in subparagraph (B), by inserting  
 16 “(for years before 2007)” after “adjusted as  
 17 appropriate”; and

18 (2) by adding at the end the following new sub-  
 19 section:

20 “(k) DETERMINATION OF APPLICABLE AMOUNT FOR  
 21 PURPOSES OF CALCULATING THE BENCHMARK  
 22 AMOUNTS.—

23 “(1) APPLICABLE AMOUNT DEFINED.—For  
 24 purposes of subsection (j), subject to paragraph (2),  
 25 the term ‘applicable amount’ means for an area—

26 “(A) for 2007—

1           “(i) if such year is not specified under  
2 subsection (c)(1)(D)(ii), an amount equal  
3 to the amount specified in subsection  
4 (c)(1)(C) for the area for 2006—

5           “(I) first adjusted by the re-  
6 scaling factor for 2006 for the area  
7 (as made available by the Secretary in  
8 the announcement of the rates on  
9 April 4, 2005, under subsection  
10 (b)(1), but excluding any national ad-  
11 justment factors for coding intensity  
12 and risk adjustment budget neutrality  
13 that were included in such factor);  
14 and

15           “(II) then increased by the na-  
16 tional per capita MA growth percent-  
17 age, described in subsection (c)(6) for  
18 that succeeding year, but not taking  
19 into account any adjustment under  
20 subparagraph (C) of such subsection  
21 for a year before 2004;

22           “(ii) if such year is specified under  
23 subsection (c)(1)(D)(ii), an amount equal  
24 to the greater of—

1                   “(I) the amount determined  
2                   under clause (i) for the area for the  
3                   year; or

4                   “(II) the amount specified in  
5                   subsection (c)(1)(D) for the area for  
6                   the year; and

7                   “(B) for a subsequent year—

8                   “(i) if such year is not specified under  
9                   subsection (c)(1)(D)(ii), an amount equal  
10                  to the amount determined under this para-  
11                  graph for the area for the previous year,  
12                  increased by the national per capita MA  
13                  growth percentage, described in subsection  
14                  (c)(6) for that succeeding year, but not  
15                  taking into account any adjustment under  
16                  subparagraph (C) of such subsection for a  
17                  year before 2004; and

18                  “(ii) if such year is specified under  
19                  subsection (c)(1)(D)(ii), an amount equal  
20                  to the greater of—

21                   “(I) the amount determined  
22                   under clause (i) for the area for the  
23                   year; or

1                   “(II) the amount specified in  
2                   subsection (c)(1)(D) for the area for  
3                   the year.

4                   “(2) ADJUSTMENT.—

5                   “(A) IN GENERAL.—Except as provided in  
6                   subparagraph (D), in the case of 2007 through  
7                   2010, the applicable amount determined under  
8                   paragraph (1) shall be increased by a factor  
9                   equal to 1 plus the product of—

10                   “(i) the percent determined under  
11                   subparagraph (B) for the year; and

12                   “(ii) the applicable percent for the  
13                   year under subparagraph (C).

14                   “(B) PERCENT DETERMINED.—

15                   “(i) IN GENERAL.—For purposes of  
16                   subparagraph (A)(i), subject to clause (ii),  
17                   the percent determined under this subpara-  
18                   graph for a year is a percent equal to a  
19                   fraction—

20                   “(I) the numerator of which is an  
21                   amount equal to—

22                   “(aa) the Secretary’s esti-  
23                   mate of the total payments that  
24                   would have been made under this  
25                   part in the year if all the month-

1 ly payment amounts for all MA  
 2 plans were equal to  $\frac{1}{12}$  of the  
 3 annual MA capitation rate under  
 4 subsection (c)(1) for the area and  
 5 year; minus

6 “(bb) the Secretary’s esti-  
 7 mate of the total payments that  
 8 would have been made under this  
 9 part in the year if all the month-  
 10 ly payment amounts for all MA  
 11 plans were equal to  $\frac{1}{12}$  of the  
 12 MA area-specific non-drug  
 13 monthly benchmark amount  
 14 under subsection (j) for the area  
 15 and year; and

16 “(II) the denominator of which is  
 17 equal to the total amount estimated  
 18 for the year under subclause (I)(bb).

19 “(ii) REQUIREMENTS.—In estimating  
 20 the amounts under clause (i), the  
 21 Secretary—

22 “(I) shall—

23 “(aa) use a complete set of  
 24 the most recent and representa-  
 25 tive Medicare Advantage risk

1 scores under subsection (a)(3)  
2 that are available from the risk  
3 adjustment model announced for  
4 the year;

5 “(bb) adjust the risk scores  
6 to reflect changes in treatment  
7 and coding practices in the fee-  
8 for-service sector;

9 “(cc) adjust the risk scores  
10 for differences in coding patterns  
11 between Medicare Advantage  
12 plans and providers under part A  
13 and B to the extent that the Sec-  
14 retary has identified such dif-  
15 ferences;

16 “(dd) as necessary, adjust  
17 the risk scores for late data sub-  
18 mitted by Medicare Advantage  
19 organizations;

20 “(ee) as necessary, adjust  
21 the risk scores for lagged cohorts;  
22 and

23 “(ff) as necessary, adjust  
24 the risk scores for changes in en-

1 rollment in Medicare Advantage  
2 plans during the year; and

3 “(II) may take into account the  
4 estimated health risk of enrollees in  
5 preferred provider organization plans  
6 (including MA regional plans) for the  
7 year.

8 In order to make the adjustment required  
9 under item (cc) and to ensure payment ac-  
10 curacy, the Secretary shall conduct an  
11 analysis of the differences described in  
12 such item. The Secretary shall complete  
13 such analysis by a date necessary to ensure  
14 that the results of such analysis are incor-  
15 porated into the payment rates for a year  
16 not later than 2008. In conducting such  
17 analysis, the Secretary shall use data sub-  
18 mitted with respect to 2004 and subse-  
19 quent years, as available.

20 “(C) APPLICABLE PERCENT.—For pur-  
21 poses of subparagraph (A)(ii), the term ‘appli-  
22 cable percent’ means—

23 “(i) for 2007, 55 percent;

24 “(ii) for 2008, 40 percent;

25 “(iii) for 2009, 25 percent; and

1 “(iv) for 2010, 5 percent.

2 “(D) TERMINATION OF ADJUSTMENT.—

3 The Secretary shall not make any adjustment  
4 under subparagraph (A) in a year if the  
5 amount estimated under subparagraph  
6 (B)(i)(I)(bb) for the year is equal to or greater  
7 than the amount estimated under subparagraph  
8 (B)(i)(I)(aa) for the year.

9 “(3) NO ADDITIONAL ADJUSTMENTS.—

10 “(A) IN GENERAL.—Except for the adjust-  
11 ment provided for in paragraph (2), the Sec-  
12 retary may not make any adjustment to the ap-  
13 plicable amount determined in paragraph (1)  
14 for any year.

15 “(B) RULE OF CONSTRUCTION.—Nothing  
16 in this subsection shall be construed to limit the  
17 authority of the Secretary to risk adjust the  
18 amount under subsection (c)(1)(D) pursuant to  
19 clause (i) of such subsection.”.

20 (b) REFINEMENTS TO HEALTH STATUS ADJUST-  
21 MENT.—Section 1853(a)(1)(C) (42 U.S.C. 1395w-23) is  
22 amended by inserting after the first sentence the following  
23 new sentence: “In applying such adjustment for health  
24 status to such payment amounts, the Secretary shall en-  
25 sure that such adjustment reflects changes in treatment

1 and coding practices in the fee-for-service sector and re-  
 2 flects differences in coding patterns between Medicare Ad-  
 3 vantage plans and providers under part A and B to the  
 4 extent that the Secretary has identified such differences.”.

5 **SEC. 6112. ELIMINATION OF MEDICARE ADVANTAGE RE-**  
 6 **GIONAL PLAN STABILIZATION FUND.**

7 (a) **ELIMINATION.**—

8 (1) **IN GENERAL.**—Subsection (e) of section  
 9 1858 (42 U.S.C. 1395w-27a) is repealed.

10 (2) **CONFORMING AMENDMENT.**—Section  
 11 1858(f)(1) (42 U.S.C. 1395w-27a(f)(1)) is amended  
 12 by striking “subject to subsection (e),”.

13 (3) **EFFECTIVE DATE.**—The amendments made  
 14 by this subsection shall take effect as if included in  
 15 the enactment of section 221(c) of the Medicare Pre-  
 16 scription Drug, Improvement, and Modernization  
 17 Act of 2003 (Public Law 108-173; 117 Stat. 2181).

18 (b) **TIMEFRAME FOR PART A AND B PAYMENTS.**—  
 19 Notwithstanding sections 1816(c) and 1842(e)(2) of the  
 20 Social Security Act or any other provision of law—

21 (1) any payment from the Federal Hospital In-  
 22 surance Trust Fund under section 1817 of the So-  
 23 cial Security Act (42 U.S.C. 1395i) or from the Fed-  
 24 eral Supplementary Medical Insurance Trust Fund  
 25 under section 1841 of such Act (42 U.S.C. 1395t)

1 for claims submitted under part A or B of title  
2 XVIII of such Act for items and services furnished  
3 under such part A or B, respectively, that would  
4 otherwise be payable during the period beginning on  
5 September 22, 2006, and ending on September 30,  
6 2006, shall be paid on the first business day of Oc-  
7 tober 2006; and

8 (2) no interest or late penalty shall be paid to  
9 an entity or individual for any delay in a payment  
10 by reason of the application of paragraph (1).

11 **SEC. 6113. RURAL PACE PROVIDER GRANT PROGRAM.**

12 (a) DEFINITIONS.—In this section:

13 (1) CMS.—The term “CMS” means the Cen-  
14 ters for Medicare & Medicaid Services.

15 (2) ELIGIBLE PARTICIPANT.—The term “eligi-  
16 ble participant” means a PACE program eligible in-  
17 dividual (as defined in sections 1894(a)(5) and  
18 1934(a)(5) of the Social Security Act (42 U.S.C.  
19 1395eee(a)(5); 1396u-4(a)(5))).

20 (3) PACE PROGRAM.—The term “PACE pro-  
21 gram” has the meaning given that term in sections  
22 1894(a)(2) and 1934(a)(2) of the Social Security  
23 Act (42 U.S.C. 1395eee(a)(2); 1396u-4(a)(2)).

24 (4) PACE PROVIDER.—The term “PACE pro-  
25 vider” has the meaning given that term in section

1 1894(a)(3) or 1934(a)(3) of the Social Security Act  
2 (42 U.S.C. 1395eee(a)(3); 1396u-4(a)(3)).

3 (5) RURAL AREA.—The term “rural area” has  
4 the meaning given that term in section  
5 1886(d)(2)(D) of the Social Security Act (42 U.S.C.  
6 1395ww(d)(2)(D)).

7 (6) RURAL PACE PILOT SITE.—The term “rural  
8 PACE pilot site” means a PACE provider that has  
9 been approved to provide services in a geographic  
10 service area that is, in whole or in part, a rural area,  
11 and that has received a site development grant  
12 under this section.

13 (7) SECRETARY.—The term “Secretary” means  
14 the Secretary of Health and Human Services.

15 (b) SITE DEVELOPMENT GRANTS AND TECHNICAL  
16 ASSISTANCE PROGRAM.—

17 (1) SITE DEVELOPMENT GRANTS.—

18 (A) IN GENERAL.—The Secretary shall es-  
19 tablish a process and criteria to award site de-  
20 velopment grants to qualified PACE providers  
21 that have been approved to serve a geographic  
22 service area that is, in whole or in part, a rural  
23 area.

24 (B) AMOUNT PER AWARD.—A site develop-  
25 ment grant awarded under subparagraph (A) to

1 any individual rural PACE pilot site shall not  
2 exceed \$750,000.

3 (C) NUMBER OF AWARDS.—Not more than  
4 15 rural PACE pilot sites shall be awarded a  
5 site development grant under subparagraph  
6 (A).

7 (D) USE OF FUNDS.—Funds made avail-  
8 able under a site development grant awarded  
9 under subparagraph (A) may be used for the  
10 following expenses only to the extent such ex-  
11 penses are incurred in relation to establishing  
12 or delivering PACE program services in a rural  
13 area:

14 (i) Feasibility analysis and planning.

15 (ii) Interdisciplinary team develop-  
16 ment.

17 (iii) Development of a provider net-  
18 work, including contract development.

19 (iv) Development or adaptation of  
20 claims processing systems.

21 (v) Preparation of special education  
22 and outreach efforts required for the  
23 PACE program.

1 (vi) Development of expense reporting  
2 required for calculation of outlier payments  
3 or reconciliation processes.

4 (vii) Development of any special qual-  
5 ity of care or patient satisfaction data col-  
6 lection efforts.

7 (viii) Establishment of a working cap-  
8 ital fund to sustain fixed administrative,  
9 facility, or other fixed costs until the pro-  
10 vider reaches sufficient enrollment size.

11 (ix) Startup and development costs in-  
12 curred prior to the approval of the rural  
13 PACE pilot site's PACE provider applica-  
14 tion by CMS.

15 (x) Any other efforts determined by  
16 the rural PACE pilot site to be critical to  
17 its successful startup, as approved by the  
18 Secretary.

19 (E) APPROPRIATION.—

20 (i) IN GENERAL.—Out of funds in the  
21 Treasury not otherwise appropriated, there  
22 are appropriated to the Secretary to carry  
23 out this subsection for the period of fiscal  
24 years 2006 through 2007, \$7,500,000.

1                   (ii) AVAILABILITY.—Funds appro-  
2                   priated under clause (i) shall remain avail-  
3                   able for expenditure through fiscal year  
4                   2010.

5                   (2) TECHNICAL ASSISTANCE PROGRAM.—The  
6                   Secretary shall establish a technical assistance pro-  
7                   gram to provide—

8                   (A) outreach and education to State agen-  
9                   cies and provider organizations interested in es-  
10                  tablishing PACE programs in rural areas; and

11                  (B) technical assistance necessary to sup-  
12                  port rural PACE pilot sites.

13                  (c) COST OUTLIER PROTECTION FOR RURAL PACE  
14                  PILOT SITES.—

15                  (1) ESTABLISHMENT OF FUND FOR REIM-  
16                  BURSEMENT OF OUTLIER COSTS.—

17                  (A) IN GENERAL.—Notwithstanding any  
18                  other provision of law, the Secretary shall es-  
19                  tablish an outlier fund to reimburse rural  
20                  PACE pilot sites for outlier costs (as defined in  
21                  subparagraph (B)) incurred for eligible partici-  
22                  pants who reside in a rural area in accordance  
23                  with the expense payment specified in subpara-  
24                  graph (C).

25                  (B) OUTLIER COSTS DEFINED.—

1 (i) IN GENERAL.—In subparagraph  
2 (A), the term “outlier costs” means the in-  
3 patient and related physician and ancillary  
4 costs in excess of \$50,000 incurred within  
5 a given 12-month period for an eligible  
6 participant who resides in a rural area.

7 (ii) INCLUSION IN ONLY 1 PERIOD.—  
8 Outlier costs may not be included in more  
9 than one 12-month period for purposes of  
10 calculating an outlier expense payment  
11 under subparagraph (C).

12 (C) OUTLIER EXPENSE PAYMENT.—

13 (i) PAYMENT FOR OUTLIER COSTS.—  
14 Subject to clause (ii), in the case of a rural  
15 PACE pilot site that has incurred outlier  
16 costs for an eligible participant, the rural  
17 PACE pilot site shall receive an outlier ex-  
18 pense payment equal to 80 percent of such  
19 costs.

20 (ii) LIMITATIONS.—

21 (I) COSTS INCURRED PER ELIGI-  
22 BLE PARTICIPANT.—The total amount  
23 of outlier expense payments made  
24 under clause (i) to a rural PACE pilot  
25 site for outlier costs incurred with re-

1           spect to an eligible participant shall  
2           not exceed \$100,000 for the 12-month  
3           period used to calculate the payment.

4           (II) COSTS INCURRED PER PRO-  
5           VIDER.—No rural PACE pilot site  
6           may receive more than \$500,000 in  
7           total outlier expense payments in a  
8           12-month period.

9           (III) LIMITATION OF OUTLIER  
10          COST REIMBURSEMENT PERIOD.—A  
11          rural PACE pilot site shall only re-  
12          ceive outlier expense payments under  
13          this subparagraph with respect to  
14          outlier costs incurred during the first  
15          3 years of the site’s operation.

16          (D) REQUIREMENT TO ACCESS RISK RE-  
17          SERVES PRIOR TO PAYMENT.—A rural PACE  
18          pilot site shall access and exhaust any risk re-  
19          serves held or arranged for the provider (other  
20          than revenue or reserves maintained to satisfy  
21          the requirements of section 460.80(c) of title  
22          42, Code of Federal Regulations) and any  
23          working capital established through a site devel-  
24          opment grant awarded under subsection (b)(1),

1 prior to receiving any payment from the outlier  
2 fund.

3 (E) APPROPRIATION.—

4 (i) IN GENERAL.—Out of funds in the  
5 Treasury not otherwise appropriated, there  
6 are appropriated to the Secretary to carry  
7 out this subsection for the period of fiscal  
8 years 2006 through 2007, \$10,000,000.

9 (ii) AVAILABILITY.—Funds appro-  
10 priated under clause (i) shall remain avail-  
11 able for expenditure through fiscal year  
12 2010.

13 (d) EVALUATION OF PACE PROVIDERS SERVING  
14 RURAL SERVICE AREAS.—Not later than 60 months after  
15 the date of enactment of this Act, the Secretary shall sub-  
16 mit a report to Congress containing an evaluation of the  
17 experience of rural PACE pilot sites.

18 (e) AMOUNTS IN ADDITION TO PAYMENTS UNDER  
19 SOCIAL SECURITY ACT.—Any amounts paid under the au-  
20 thority of this section to a PACE provider shall be in addi-  
21 tion to payments made to the provider under section 1894  
22 or 1934 of the Social Security Act (42 U.S.C. 1395eee;  
23 1396u-4).

1 **SEC. 6114. WAIVER OF PART B LATE ENROLLMENT PEN-**  
2 **ALTY FOR CERTAIN INTERNATIONAL VOLUN-**  
3 **TEERS.**

4 (a) IN GENERAL.—

5 (1) WAIVER OF PENALTY.—Section 1839(b)(42  
6 U.S.C. 1395r(b)) is amended in the second sentence  
7 by inserting the following before the period at the  
8 end: “or months for which the individual can dem-  
9 onstrate that the individual was an individual de-  
10 scribed in section 1837(k)(3)”.

11 (2) SPECIAL ENROLLMENT PERIOD.—

12 (A) IN GENERAL.—Section 1837 (42  
13 U.S.C. 1395p) is amended by adding at the end  
14 the following new subsection:

15 “(k)(1) In the case of an individual who—

16 “(A) at the time the individual first satisfies  
17 paragraph (1) or (2) of section 1836, is described in  
18 paragraph (3), and has elected not to enroll (or to  
19 be deemed enrolled) under this section during the in-  
20 dividual’s initial enrollment period; or

21 “(B) has terminated enrollment under this sec-  
22 tion during a month in which the individual is de-  
23 scribed in paragraph (3),

24 there shall be a special enrollment period described in  
25 paragraph (2).

1       “(2) The special enrollment period referred to in  
2 paragraph (1) is the 6-month period beginning on the first  
3 day of the month which includes the date that the indi-  
4 vidual is no longer described in paragraph (3).

5       “(3) For purposes of paragraph (1), an individual de-  
6 scribed in this paragraph is an individual that is serving  
7 as a volunteer outside of the United States through a  
8 program—

9           “(A) that covers at least a 12-month period;  
10       and

11           “(B) that is sponsored by an organization de-  
12 scribed in section 501(c)(3) of the Internal Revenue  
13 Code of 1986 and exempt from taxation under sec-  
14 tion 501(a) of such Code.”.

15           (B) COVERAGE PERIOD.—Section 1838  
16 (42 U.S.C. 1395q) is amended by adding at the  
17 end the following new subsection:

18       “(f) Notwithstanding subsection (a), in the case of  
19 an individual who enrolls during a special enrollment pe-  
20 riod pursuant to section 1837(k), the coverage period shall  
21 begin on the first day of the month following the month  
22 in which the individual so enrolls.”.

23       (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a)(1) shall apply to months beginning with

1 January 2007 and the amendments made by subsection  
2 (a)(2) shall take effect on January 1, 2007.

3 **SEC. 6115. DELIVERY OF SERVICES AT FEDERALLY QUALI-**  
4 **FIED HEALTH CENTERS.**

5 (a) COVERAGE.—

6 (1) IN GENERAL.—Section 1861(aa)(3) (42  
7 U.S.C. 1395x(aa)(3)) is amended—

8 (A) in subparagraph (A), by striking “,  
9 and” and inserting “and services described in  
10 subsections (qq) and (vv); and”;

11 (B) in subparagraph (B), by striking “sec-  
12 tions 329, 330, and 340” and inserting “section  
13 330”; and

14 (C) in the flush matter at the end, by in-  
15 sserting “by the center or by a health care pro-  
16 fessional under contract with the center” after  
17 “outpatient of a Federally qualified health cen-  
18 ter”.

19 (2) CONSOLIDATED BILLING.—The first sen-  
20 tence of section 1842(b)(6)(F) (42 U.S.C.  
21 1395u(b)(6)(F)) is amended—

22 (A) by striking “and (G)” and inserting  
23 “(G)”; and

24 (B) by inserting before the period at the  
25 end the following: “, and (H) in the case of

1 services described in section 1861(aa)(3) that  
2 are furnished by a health care professional  
3 under contract with a Federally qualified health  
4 center, payment shall be made to the center”.

5 (b) TECHNICAL CORRECTIONS.—Clauses (i) and  
6 (ii)(II) of section 1861(aa)(4)(A) (42 U.S.C.  
7 1395x(aa)(4)(A)) are each amended by striking “(other  
8 than subsection (h))”.

9 (c) EFFECTIVE DATES.—The amendments made by  
10 this section shall apply to services furnished on or after  
11 January 1, 2006.

12 **SEC. 6116. TECHNICAL CORRECTION REGARDING PUR-**  
13 **CHASE AGREEMENTS FOR POWER-DRIVEN**  
14 **WHEELCHAIRS.**

15 (a) IN GENERAL.—Section 1834(a)(7)(A) (42 U.S.C.  
16 1395m(a)(7)(A)), as amended by section 6109 of this Act,  
17 is amended—

18 (1) in clause (i)(I), by striking “Payment” and  
19 inserting “Except as provided in clause (iii), pay-  
20 ment”; and

21 (2) by adding at the end the following new  
22 clause:

23 “(iii) PURCHASE AGREEMENT OPTION  
24 FOR POWER-DRIVEN WHEELCHAIRS.—

1           “(I) IN GENERAL.—In the case  
2 of a power-driven wheelchair, at the  
3 time the supplier furnishes the item,  
4 the supplier shall offer the individual  
5 the option to purchase the item, and  
6 payment for such item shall be made  
7 on a lump-sum basis if the individual  
8 exercises such option.

9           “(II) MAINTENANCE AND SERV-  
10 ICING.—In the case of a power-driven  
11 wheelchair for which a purchase  
12 agreement has been entered into  
13 under subclause (I), maintenance and  
14 servicing payments shall, if the Sec-  
15 retary determines such payments are  
16 reasonable and necessary, be made  
17 (for parts and labor not covered by  
18 the supplier’s or manufacturer’s war-  
19 ranty, as determined by the Secretary  
20 to be appropriate), and such payments  
21 shall be in an amount determined to  
22 be appropriate by the Secretary.”.

23       (b) EFFECTIVE DATE.—The amendments made by  
24 subsection (a) shall apply to items furnished on or after  
25 October 1, 2006.

1 **SEC. 6117. MEDICARE COVERAGE OF ULTRASOUND**  
2 **SCREENING FOR ABDOMINAL AORTIC ANEU-**  
3 **RYSMS; NATIONAL EDUCATIONAL AND IN-**  
4 **FORMATION CAMPAIGN.**

5 (a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x)  
6 is amended—

7 (1) in subsection (s)(2)—

8 (A) by striking “and” at the end of sub-  
9 paragraph (Y);

10 (B) by adding “and” at the end of sub-  
11 paragraph (Z); and

12 (C) by adding at the end the following new  
13 subparagraph:

14 “(AA) ultrasound screening for abdominal aor-  
15 tic aneurysm (as defined in subsection (bbb)) for an  
16 individual—

17 “(i) who receives a referral for such an  
18 ultrasound screening as a result of an initial  
19 preventive physical examination (as defined in  
20 section 1861(ww)(1));

21 “(ii) who has not been previously furnished  
22 such an ultrasound screening under this title;  
23 and

24 “(iii) who—

25 “(I) has a family history of abdominal  
26 aortic aneurysm; or

1 “(II) manifests risk factors included  
2 in a beneficiary category (not including  
3 categories related to age) recommended for  
4 screening by the United States Preventive  
5 Services Task Force regarding abdominal  
6 aortic aneurysms;” and

7 (2) by adding at the end the following new sub-  
8 section:

9 “Ultrasound Screening for Abdominal Aortic Aneurysm

10 “(bbb) The term ‘ultrasound screening for abdominal  
11 aortic aneurysm’ means—

12 “(1) a procedure using sound waves (or such  
13 other procedures using alternative technologies, of  
14 commensurate accuracy and cost, that the Secretary  
15 may specify) provided for the early detection of ab-  
16 dominal aortic aneurysm; and

17 “(2) includes a physician’s interpretation of the  
18 results of the procedure.”.

19 (b) INCLUSION OF ULTRASOUND SCREENING FOR  
20 ABDOMINAL AORTIC ANEURYSM IN SCREENING SERVICES  
21 FOR WHICH EDUCATION, COUNSELING, AND REFERRAL  
22 IS PROVIDED FOR UNDER BENEFITS FOR INITIAL PRE-  
23 VENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2)  
24 (42 U.S.C. 1395x(ww)(2)) is amended by adding at the  
25 end the following new subparagraph:

1           “(L) Ultrasound screening for abdominal aortic  
2           aneurysm as defined in section 1861(bbb).”.

3           (c) PAYMENT FOR ULTRASOUND SCREENING FOR  
4           ABDOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) (42  
5           U.S.C. 1395w-4(j)(3)) is amended by inserting  
6           “(2)(AA),” after “(2)(W),”.

7           (d) FREQUENCY AND QUALITY STANDARDS.—Sec-  
8           tion 1862(a)(1) (42 U.S.C. 1395y(a)(1)) is amended—

9           (1) by striking “and” at the end of subpara-  
10          graph (L);

11          (2) by striking the semicolon at the end of sub-  
12          paragraph (M) and inserting “, and”; and

13          (3) by adding at the end the following new sub-  
14          paragraph:

15          “(N) in the case of ultrasound screening for ab-  
16          dominal aortic aneurysm—

17                 “(i) which is performed more frequently  
18                 than is provided for under section  
19                 1861(s)(2)(AA); or

20                 “(ii) which is performed by an individual  
21                 or diagnostic laboratory that does not meet  
22                 quality assurance standards that the Secretary,  
23                 in consultation with national medical, vascular  
24                 technologist and sonographer societies, shall es-  
25                 tablish, including with respect to individuals

1 performing ultrasound screening for abdominal  
 2 aortic aneurysm (other than physicians) and di-  
 3 agnostic laboratories, that the individual or lab-  
 4 oratory is certified by the appropriate State li-  
 5 censing or certification agency or, in the case of  
 6 a service performed in a State that does not li-  
 7 cense or certify such individuals or laboratories,  
 8 by a national certification or accreditation orga-  
 9 nization recognized by the Secretary;”.

10 (e) NON-APPLICATION OF PART B DEDUCTIBLE.—

11 Section 1833(b) (42 U.S.C. 1395l(b)) is amended in the  
 12 first sentence—

13 (1) by striking “and (6)” and inserting “(6)”;

14 and

15 (2) by inserting “, and (7) such deductible shall  
 16 not apply with respect to ultrasound screening for  
 17 abdominal aortic aneurysm (as defined in section  
 18 1861(bbb))” before the period at the end.

19 (f) NATIONAL EDUCATIONAL AND INFORMATION  
 20 CAMPAIGN.—

21 (1) IN GENERAL.—After consultation with na-  
 22 tional medical, vascular technologist, and  
 23 sonographer societies, the Secretary of Health and  
 24 Human Services shall carry out a national education  
 25 and information campaign to promote awareness

1 among health care practitioners and the general  
2 public with respect to the importance of early detec-  
3 tion and treatment of abdominal aortic aneurysms.

4 (2) USE OF FUNDS.—The Secretary may use  
5 amounts appropriated pursuant to this subsection to  
6 make grants to national medical, vascular tech-  
7 nologist, and sonographer societies (in accordance  
8 with procedures and criteria specified by the Sec-  
9 retary) to enable them to educate practitioners and  
10 providers about matters relating to such aneurysms.

11 (3) AUTHORIZATION OF APPROPRIATIONS.—  
12 There is authorized to be appropriated for fiscal  
13 year 2006 and each fiscal year thereafter such sums  
14 as may be necessary to carry out this subsection.

15 (g) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to ultrasound screenings for ab-  
17 dominal aortic aneurysm performed on or after January  
18 1, 2007.

19 **SEC. 6118. IMPROVING PATIENT ACCESS TO, AND UTILIZA-**  
20 **TION OF, COLORECTAL CANCER SCREENING**  
21 **UNDER MEDICARE.**

22 (a) INCREASE IN PART B REIMBURSEMENT FOR  
23 COLORECTAL CANCER SCREENING AND DIAGNOSTIC  
24 TESTS.—

1           (1) IN GENERAL.—Section 1834(d) (42 U.S.C.  
2           1395m(d)) is amended by adding at the end the fol-  
3           lowing new paragraph:

4           “(4) ENHANCED PART B PAYMENT FOR  
5           COLORECTAL CANCER SCREENING AND DIAGNOSTIC  
6           TESTS.—

7           “(A) NONFACILITY RATES.—Notwith-  
8           standing paragraphs (2)(A) and (3)(A), the  
9           Secretary shall establish national minimum pay-  
10          ment amounts for CPT codes 45378, 45380,  
11          and 45385, and HCPCS codes G0105 and  
12          GO121 for items and services furnished on or  
13          after January 1, 2007, which reflect a 5-per-  
14          cent increase above the relative value units in  
15          effect as the nonfacility rates for such codes on  
16          December 31, 2006, with such revised payment  
17          level to apply to items and services performed  
18          in a nonfacility setting.

19          “(B) FACILITY RATES.—Notwithstanding  
20          paragraphs (2)(A) and (3)(A), the Secretary  
21          shall establish national minimum payment  
22          amounts for CPT codes 45378, 45380, and  
23          45385, and HCPCS codes G0105 and GO121  
24          for items and services furnished on or after  
25          January 1, 2007, which reflect a 5-percent in-

1           crease above the relative value units in effect as  
2           the facility rates for such codes on December  
3           31, 2006, with such revised payment level to  
4           apply to items and services performed in a facil-  
5           ity setting.

6                   “(C) ANNUAL ADJUSTMENTS.—In the case  
7           of items and services furnished on or after Jan-  
8           uary 1, 2007, the payment rates described in  
9           subparagraphs (A) and (B) shall, subject to the  
10          minimum payment amounts established in such  
11          subparagraphs, be adjusted annually as pro-  
12          vided in section 1848.”.

13                   (2) NO EFFECT ON HOPD PAYMENTS.—The  
14          Secretary shall not take into account the provisions  
15          of section 1834(d)(4) of the Social Security Act, as  
16          added by subsection (a), in determining the amount  
17          of payment for any covered OPD service under the  
18          prospective payment system for hospitals outpatient  
19          department services under section 1833(t) of such  
20          Act (42 U.S.C. 1395l(t)).

21                   (b) MEDICARE COVERAGE OF OFFICE VISIT OR CON-  
22          SULTATION PRIOR TO A SCREENING COLONOSCOPY OR IN  
23          CONJUNCTION WITH A BENEFICIARY’S DECISION TO OB-  
24          TAIN SUCH A SCREENING.—

1           (1) COVERAGE.—Section 1861(s)(2) (42 U.S.C.  
2 1395x(s)(2)), as amended by section 6117, is  
3 amended—

4           (A) in subparagraph (Z), by striking  
5 “and” at the end;

6           (B) in subparagraph (AA), by inserting  
7 “and” at the end; and

8           (C) by adding at the end the following new  
9 subparagraph:

10           “(BB) an outpatient office visit or con-  
11 sultation for the purpose of beneficiary edu-  
12 cation, assuring selection of the proper screen-  
13 ing test, and securing information relating to  
14 the procedure and sedation of the beneficiary,  
15 prior to a colorectal cancer screening test con-  
16 sisting of a screening colonoscopy or in conjunc-  
17 tion with the beneficiary’s decision to obtain  
18 such a screening, regardless of whether such  
19 screening is medically indicated with respect to  
20 the beneficiary;”.

21           (2) PAYMENT.—

22           (A) IN GENERAL.—Section 1833(a)(1) (42  
23 U.S.C. 1395l(a)(1)) is amended—

24           (i) by striking “and” before “(V)”;

25           and

1 (ii) by inserting before the semicolon  
2 at the end the following: “, and (W) with  
3 respect to an outpatient office visit or con-  
4 sultation under section 1861(s)(2)(BB),  
5 the amounts paid shall be 80 percent of  
6 the lesser of the actual charge or the  
7 amount established under section 1848”.

8 (B) PAYMENT UNDER PHYSICIAN FEE  
9 SCHEDULE.—Section 1848(j)(3) (42 U.S.C.  
10 1395w-4(j)(3)), as amended by section 6117, is  
11 amended by inserting “(2)(BB),” after  
12 “(2)(AA),”.

13 (C) REQUIREMENT FOR ESTABLISHMENT  
14 OF PAYMENT AMOUNT UNDER PHYSICIAN FEE  
15 SCHEDULE.—Section 1834(d) (42 U.S.C.  
16 1395m(d)), as amended by subsection (a), is  
17 amended by adding at the end the following  
18 new paragraph:

19 “(5) PAYMENT FOR OUTPATIENT OFFICE VISIT  
20 OR CONSULTATION PRIOR TO SCREENING  
21 COLONOSCOPY.—With respect to an outpatient office  
22 visit or consultation under section 1861(s)(2)(BB),  
23 payment under section 1848 shall be consistent with  
24 the payment amounts for CPT codes 99203 and  
25 99243.”.

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to items and services  
3           provided on or after January 1, 2007.

4           (c) WAIVER OF DEDUCTIBLE FOR COLORECTAL CAN-  
5           CER SCREENING TESTS.—

6           (1) IN GENERAL.—Section 1833(b) (42 U.S.C.  
7           1395l(b)), as amended by section 6117, is amended  
8           in the first sentence—

9                   (A) by striking “and” before “(7)”; and

10                   (B) by inserting before the period at the  
11                   end the following: “, and (8) such deductible  
12                   shall not apply with respect to colorectal cancer  
13                   screening tests (as described in section  
14                   1861(pp)(1))”.

15           (2) CONFORMING AMENDMENTS.—Paragraphs  
16           (2)(C)(ii) and (3)(C)(ii) of section 1834(d) (42  
17           U.S.C. 1395m(d)) are each amended—

18                   (A) by striking “DEDUCTIBLE AND” in the  
19                   heading; and

20                   (B) in subclause (I), by striking “deduct-  
21                   ible or” each place it appears.

22           (3) EFFECTIVE DATE.—The amendments made  
23           by this subsection shall apply to items and services  
24           furnished on or after January 1, 2007.

1 **SEC. 6119. COVERAGE OF MARRIAGE AND FAMILY THERA-**  
 2 **PIST SERVICES AND MENTAL HEALTH COUN-**  
 3 **SELOR SERVICES UNDER PART B OF THE**  
 4 **MEDICARE PROGRAM.**

5 (a) COVERAGE OF SERVICES.—

6 (1) IN GENERAL.—Section 1861(s)(2) (42  
 7 U.S.C. 1395x(s)(2)), as amended by section  
 8 6118(b), is amended—

9 (A) in subparagraph (AA), by striking  
 10 “and” after the semicolon at the end;

11 (B) in subparagraph (BB), by inserting  
 12 “and” after the semicolon at the end; and

13 (C) by adding at the end the following new  
 14 subparagraph:

15 “(CC) marriage and family therapist services  
 16 (as defined in subsection (ccc)(1)) and mental health  
 17 counselor services (as defined in subsection  
 18 (ccc)(3));”.

19 (2) DEFINITIONS.—Section 1861 (42 U.S.C.  
 20 1395x), as amended by section 6117, is amended by  
 21 adding at the end the following new subsection:

22 “Marriage and Family Therapist Services; Marriage and  
 23 Family Therapist; Mental Health Counselor Serv-  
 24 ices; Mental Health Counselor

25 “(ccc)(1) The term ‘marriage and family therapist  
 26 services’ means services performed by a marriage and

1 family therapist (as defined in paragraph (2)) for the diag-  
2 nosis and treatment of mental illnesses, which the mar-  
3 riage and family therapist is legally authorized to perform  
4 under State law (or the State regulatory mechanism pro-  
5 vided by State law) of the State in which such services  
6 are performed, as would otherwise be covered if furnished  
7 by a physician or as an incident to a physician’s profes-  
8 sional service, but only if no facility or other provider  
9 charges or is paid any amounts with respect to the fur-  
10 nishing of such services.

11 “(2) The term ‘marriage and family therapist’ means  
12 an individual who—

13 “(A) possesses a master’s or doctoral degree  
14 which qualifies for licensure or certification as a  
15 marriage and family therapist pursuant to State  
16 law;

17 “(B) after obtaining such degree has performed  
18 at least 2 years of clinical supervised experience in  
19 marriage and family therapy; and

20 “(C) in the case of an individual performing  
21 services in a State that provides for licensure or cer-  
22 tification of marriage and family therapists, is li-  
23 censed or certified as a marriage and family thera-  
24 pist in such State.

1       “(3) The term ‘mental health counselor services’  
2 means services performed by a mental health counselor (as  
3 defined in paragraph (4)) for the diagnosis and treatment  
4 of mental illnesses which the mental health counselor is  
5 legally authorized to perform under State law (or the  
6 State regulatory mechanism provided by the State law) of  
7 the State in which such services are performed, as would  
8 otherwise be covered if furnished by a physician or as inci-  
9 dent to a physician’s professional service, but only if no  
10 facility or other provider charges or is paid any amounts  
11 with respect to the furnishing of such services.

12       “(4) The term ‘mental health counselor’ means an  
13 individual who—

14               “(A) possesses a master’s or doctor’s degree in  
15 mental health counseling or a related field;

16               “(B) after obtaining such a degree has per-  
17 formed at least 2 years of supervised mental health  
18 counselor practice; and

19               “(C) in the case of an individual performing  
20 services in a State that provides for licensure or cer-  
21 tification of mental health counselors or professional  
22 counselors, is licensed or certified as a mental health  
23 counselor or professional counselor in such State.”.

24               (3) PROVISION FOR PAYMENT UNDER PART  
25 B.—Section       1832(a)(2)(B)       (42       U.S.C.

1 1395k(a)(2)(B)) is amended by adding at the end  
 2 the following new clause:

3 “(v) marriage and family therapist  
 4 services and mental health counselor serv-  
 5 ices;”.

6 (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)  
 7 (42 U.S.C. 1395l(a)(1)), as amended by section  
 8 6118, is amended—

9 (A) by striking “and (W)” and inserting  
 10 “(W)”; and

11 (B) by inserting before the semicolon at  
 12 the end the following: “, and (X) with respect  
 13 to marriage and family therapist services and  
 14 mental health counselor services under section  
 15 1861(s)(2)(CC), the amounts paid shall be 80  
 16 percent of the lesser of the actual charge for  
 17 the services or 75 percent of the amount deter-  
 18 mined for payment of a psychologist under sub-  
 19 paragraph (L)”.

20 (5) EXCLUSION OF MARRIAGE AND FAMILY  
 21 THERAPIST SERVICES AND MENTAL HEALTH COUN-  
 22 SELOR SERVICES FROM SKILLED NURSING FACILITY  
 23 PROSPECTIVE PAYMENT SYSTEM.—Section  
 24 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)) is  
 25 amended by inserting “marriage and family thera-

1       pist services (as defined in section 1861(ccc)(1)),  
2       mental health counselor services (as defined in sec-  
3       tion 1861(ccc)(3)),” after “qualified psychologist  
4       services,”.

5               (6) INCLUSION OF MARRIAGE AND FAMILY  
6       THERAPISTS AND MENTAL HEALTH COUNSELORS AS  
7       PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-  
8       tion 1842(b)(18)(C) (42 U.S.C. 1395u(b)(18)(C)) is  
9       amended by adding at the end the following new  
10      clauses:

11              “(vii) A marriage and family therapist (as de-  
12      fined in section 1861(ccc)(2)).

13              “(viii) A mental health counselor (as defined in  
14      section 1861(ccc)(4)).”.

15              (b) COVERAGE OF CERTAIN MENTAL HEALTH SERV-  
16      ICES PROVIDED IN CERTAIN SETTINGS.—

17              (1) RURAL HEALTH CLINICS AND FEDERALLY  
18      QUALIFIED HEALTH CENTERS.—Section  
19      1861(aa)(1)(B) (42 U.S.C. 1395x(aa)(1)(B)) is  
20      amended by striking “or by a clinical social worker  
21      (as defined in subsection (hh)(1)),” and inserting “,  
22      by a clinical social worker (as defined in subsection  
23      (hh)(1)), by a marriage and family therapist (as de-  
24      fined in subsection (ccc)(2)), or by a mental health  
25      counselor (as defined in subsection (ccc)(4)),”.

1           (2)           HOSPICE           PROGRAMS.—Section  
 2           1861(dd)(2)(B)(i)(III)           (42           U.S.C.  
 3           1395x(dd)(2)(B)(i)(III)) is amended by inserting “or  
 4           one marriage and family therapist (as defined in  
 5           subsection (bbb)(2))” after “social worker”.

6           (c) EFFECTIVE DATE.—The amendments made by  
 7 this section shall apply with respect to services furnished  
 8 on or after January 1, 2007.

9   **SEC. 6120. QUALITY MEASUREMENT SYSTEMS AMEND-**  
 10                           **MENTS.**

11           Section 1860E–1 , as added by section 6110(a)(2),  
 12 is amended—

13           (1) in subsection (b)(1)—

14                   (A) in subparagraph (B)—

15                           (i) in clause (vi), by striking “and” at  
 16                           the end;

17                           (ii) in clause (vii), by striking the pe-  
 18                           riod at the end and inserting “; and”; and

19                           (iii) by adding at the end the fol-  
 20                           lowing new clause:

21                           “(viii) measures that address condi-  
 22                           tions where there is the greatest disparity  
 23                           of health care provided and health out-  
 24                           comes between majority and minority  
 25                           groups.”; and

1 (B) in subparagraph (E)—

2 (i) in clause (v), by striking “and” at  
3 the end;

4 (ii) by redesignating clause (vi) as  
5 clause (vii); and

6 (iii) by inserting after clause (v) the  
7 following new clause:

8 “(vi) allows quality measures that are  
9 reported to be stratified according to pa-  
10 tient group characteristics, and”;

11 (2) in subsection (c)(4)—

12 (A) in subparagraph (B), by striking  
13 “and” at the end;

14 (B) in subparagraph (C), by striking the  
15 period at the end and inserting “; and”; and

16 (C) by adding at the end the following new  
17 subparagraph:

18 “(D) The report commissioned by Con-  
19 gress from the Institute of Medicine of the Na-  
20 tional Academy of Sciences, titled ‘Unequal  
21 Treatment: Confronting Racial and Ethnic Dis-  
22 parities in Health Care.’”; and

23 (3) in subsection (d)(2), by inserting “experts  
24 in minority health,” after “government agencies,”.

1 **TITLE VII—COMMITTEE ON**  
2 **HEALTH, EDUCATION, LABOR,**  
3 **AND PENSIONS**

4 **Subtitle A—Education Provisions**

5 **CHAPTER 1—EDUCATION**

6 **SEC. 7101. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

7 (a) AMENDMENT.—Subpart 1 of part A of title IV  
8 of the Higher Education Act of 1965 (20 U.S.C. 1070a)  
9 is amended by adding at the end the following:

10 **“SEC. 401A. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

11 “(a) GRANTS.—

12 “(1) IN GENERAL.—From amounts appro-  
13 priated under subsection (e) for a fiscal year and  
14 subject to subsection (b), the Secretary shall award  
15 grants to students (which shall be known as  
16 ‘ProGAP awards’) in the same manner as the Sec-  
17 retary awards grants to students under section 401,  
18 except that—

19 “(A) at the beginning of each award year,  
20 the Secretary shall establish a maximum and  
21 minimum award level based on amounts made  
22 available under subsection (e);

23 “(B) the Secretary shall only award grants  
24 under this section to students eligible for a

1 grant under section 401 for the award year;  
2 and

3 “(C) when determining eligibility for the  
4 awards, the Secretary shall consider only those  
5 students who are eligible for a grant under sec-  
6 tion 401, as of June 30 of the award year for  
7 which the determination is made.

8 “(D) the Secretary—

9 “(i) shall determine if an increase in  
10 the amount of a grant under this section  
11 is needed to help encourage students to  
12 pursue courses of study that are important  
13 to the current and future national, home-  
14 land, and economic security needs of the  
15 United States; and

16 “(ii) after making the determination  
17 described in clause (i), may increase the  
18 maximum and minimum award level estab-  
19 lished under subparagraph (A) by not  
20 more than 25 percent, for students eligible  
21 for a grant under this section who are pur-  
22 suing a degree with a major in mathe-  
23 matics, science, technology, engineering, or  
24 a foreign language that is critical to the  
25 national security of the United States; and

1           “(E) not later than September 30 of each  
2           fiscal year, the Secretary shall notify Congress,  
3           in writing, of the Secretary’s determination  
4           with respect to subparagraph (D)(i) and of any  
5           increase in award levels under subparagraph  
6           (D)(ii).

7           “(2) STUDENTS WITH THE GREATEST NEED.—  
8           The Secretary shall ensure grants are awarded  
9           under this section to students with the greatest need  
10          as determined in accordance with section 471.

11          “(b) COST OF ATTENDANCE LIMITATION.—A grant  
12          awarded under this section for an award year shall be  
13          awarded in an amount that does not exceed—

14                 “(1) the student’s cost of attendance for the  
15                 award year; less

16                 “(2) an amount equal to the expected family  
17                 contribution for that student for the award year.

18          “(c) SUPPLEMENT NOT SUPPLANT.—Grants award-  
19          ed from funds made available under subsection (e) shall  
20          be used to supplement, and not supplant, other Federal,  
21          State, or institutional grant funds.

22          “(d) USE OF EXCESS FUNDS.—

23                 “(1) 15 PERCENT OR LESS.—If, at the end of  
24                 a fiscal year, the funds available for making grant  
25                 payments under this section exceed the amount nec-

1       essary to make the grant payments required under  
2       this section to eligible students by 15 percent or less,  
3       then all of the excess funds shall remain available  
4       for making grant payments under this section dur-  
5       ing the next succeeding fiscal year.

6               “(2) MORE THAN 15 PERCENT.—If, at the end  
7       of a fiscal year, the funds available for making grant  
8       payments under this section exceed the amount nec-  
9       essary to make the grant payments required under  
10       this section to eligible students by more than 15 per-  
11       cent, then all of such funds shall remain available  
12       for making such grant payments but grant payments  
13       may be made under this paragraph only with respect  
14       to awards for that fiscal year.”.

15       “(e) AUTHORIZATION AND APPROPRIATION OF  
16       FUNDS.—There are authorized to be appropriated, and  
17       there are appropriated, out of any money in the Treasury  
18       not otherwise appropriated, for the Department of Edu-  
19       cation to carry out this section and section 401B—

20               “(1) \$1,897,000,000 for fiscal year 2006;

21               “(2) \$1,901,000,000 for fiscal year 2007;

22               “(3) \$1,899,000,000 for fiscal year 2008;

23               “(4) \$1,898,000,000 for fiscal year 2009; and

24               “(5) \$1,897,000,000 for fiscal year 2010.

1       “(f) SUNSET PROVISION.—This section shall be effective with respect to amounts appropriated for fiscal year 2006 and each of the 4 succeeding fiscal years.”.

4       (b) SENSE OF THE SENATE.—It is the sense of the Senate that the amounts appropriated to carry out sections 401A and 401B of the Higher Education Act of 1965 are the result of the savings generated by the amendments made by this chapter.

9       **SEC. 7102. NATIONAL SMART GRANTS.**

10       Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is further amended by adding after section 401A (as added by section 7101):

13       **“SEC. 401B. NATIONAL SMART GRANTS.**

14       “(a) FINDINGS.—Congress makes the following findings:

16               “(1) If the United States is to remain a world leader in the global economy, its college students must have the training they need to compete for the best jobs of the 21st century.

20               (2) The United States intelligence community faces major shortages in foreign languages critical to national security, and will also require major incentives to fill projected workforce needs.

24               “(3) Increasingly, the best jobs of the 21st century will require baccalaureate degrees in the

1 sciences, mathematics, technology, engineering, and  
2 foreign languages critical to national security, or be  
3 generated by people who have such degrees.

4 “(4) Congress should establish a National  
5 Science and Mathematics Access to Retain Talent  
6 (SMART) grant program to meet the goals de-  
7 scribed in paragraphs (1) through (3).

8 “(b) PURPOSE.—The purpose of this section is to in-  
9 crease the number of postsecondary students from low-in-  
10 come backgrounds who are enrolled in studies leading to  
11 baccalaureate degrees in physical, life, or computer  
12 sciences, mathematics, technology, engineering, and for-  
13 eign languages critical to national security.

14 “(c) GRANTS AUTHORIZED.—From amounts appro-  
15 priated under section 401A(c) for a fiscal year, the Sec-  
16 retary shall award grants to eligible students to assist the  
17 eligible students in paying their college education ex-  
18 penses.

19 “(d) DESIGNATION.—A grant under this section shall  
20 be known as a ‘National Science and Mathematics Access  
21 to Retain Talent Grant’ or a ‘National SMART Grant’.

22 “(e) DEFINITION OF ELIGIBLE STUDENT.—In this  
23 section the term ‘eligible student’ means a student who,  
24 for the academic year for which the determination is  
25 made—

1           “(1) is eligible for a Federal Pell Grant; and

2           “(2) is in the student’s 3rd or 4th year at an  
3 institution of higher education majoring in—

4                   “(A) mathematics, science, technology, or  
5 engineering (as determined by the Secretary  
6 pursuant to regulations); or

7                   “(B) a foreign language that the Sec-  
8 retary, in consultation with the Director of Na-  
9 tional Intelligence, determines is critical to the  
10 national security of the United States.

11       “(f) GRANT AMOUNT.—The Secretary shall award a  
12 grant under this section in an amount that does not exceed  
13 \$1,500 for an academic year.

14       “(g) FUNDING RULE.—The Secretary shall use not  
15 more than \$450,000,000 of the funds appropriated under  
16 section 401A(c) for each of the fiscal years 2006 through  
17 2010 to carry out this section.

18       “(h) UNOBLIGATED FUNDS AVAILABLE FOR FED-  
19 ERAL GRANT ASSISTANCE.—The Secretary shall make  
20 any funds made available under subsection (g) for a fiscal  
21 year that remain unobligated at the end of the fiscal year  
22 available to carry out section 401A.

23       “(i) MATCHING ASSISTANCE.—An institution of  
24 higher education may, from funds provided from private  
25 sources, provide additional assistance to a student receiv-

1 ing a grant under this section, except that the total assist-  
2 ance provided under this title to a student shall not exceed  
3 the student's cost of attendance.”.

4 **SEC. 7103. LOAN LIMITS.**

5 (a) FEDERAL INSURANCE LIMITS.—Section  
6 425(a)(1)(A) of the Higher Education Act of 1965 (20  
7 U.S.C. 1075(a)(1)(A)) is amended—

8 (1) in clause (i)(I), by striking “\$2,625” and  
9 inserting “\$3,500”; and

10 (2) in clause (ii)(I), by striking “\$3,500” and  
11 inserting “\$4,500”.

12 (b) GUARANTEE LIMITS.—Section 428(b)(1)(A) of  
13 the Higher Education Act of 1965 (20 U.S.C.  
14 1078(b)(1)(A)) is amended—

15 (1) in clause (i)(I), by striking “\$2,625” and  
16 inserting “\$3,500”; and

17 (2) in clause (ii)(I), by striking “\$3,500” and  
18 inserting “\$4,500”.

19 (c) FEDERAL PLUS LOANS.—Section 428B of the  
20 Higher Education Act of 1965 (20 U.S.C. 1078–2) is  
21 amended—

22 (1) in subsection (a)(1)—

23 (A) in the matter preceding subparagraph

24 (A), by striking “Parents” and inserting “A

1 graduate or professional student or the par-  
 2 ents”;

3 (B) in subparagraph (A), by striking “the  
 4 parents” and inserting “the graduate or profes-  
 5 sional student or the parents”; and

6 (C) in subparagraph (B), by striking “the  
 7 parents” and inserting “the graduate or profes-  
 8 sional student or the parents”;

9 (2) in subsection (b), by striking “any parent”  
 10 and inserting “any graduate or professional student  
 11 or any parent”;

12 (3) in subsection (c)(2), by striking “parent”  
 13 and inserting “graduate or professional student or  
 14 parent”; and

15 (4) in subsection (d)(1), by striking “the par-  
 16 ent” and inserting “the graduate or professional stu-  
 17 dent or the parent”.

18 (d) UNSUBSIDIZED STAFFORD LOANS FOR GRAD-  
 19 UATE OR PROFESSIONAL STUDENTS.—Section  
 20 428H(d)(2) of the Higher Education Act of 1965 (20  
 21 U.S.C. 1078–8(d)(2)) is amended—

22 (1) in subparagraph (C), by striking “\$10,000”  
 23 and inserting “\$12,000”; and

24 (2) in subparagraph (D)—

1 (A) in clause (i), by striking “\$5,000” and  
 2 inserting “\$7,000”; and

3 (B) in clause (ii), by striking “\$5,000”  
 4 and inserting “\$7,000”.

5 **SEC. 7104. PLUS LOAN INTEREST RATES AND ZERO SPE-**  
 6 **CIAL ALLOWANCE PAYMENT.**

7 (a) PLUS LOANS.—Section 427A(l)(2) of the Higher  
 8 Education Act of 1965 (20 U.S.C. 1077a(l)(2)) is amend-  
 9 ed by striking “7.9 percent” and inserting “8.5 percent”.

10 (b) CONFORMING AMENDMENTS FOR SPECIAL AL-  
 11 LOWANCES.—

12 (1) AMENDMENTS.—Subparagraph (I) of sec-  
 13 tion 438(b)(2) of the Higher Education Act of 1965  
 14 (20 U.S.C. 1087–1(b)(2)) is amended—

15 (A) in clause (iv), by striking “, subject to  
 16 clause (vi) of this subparagraph”;

17 (B) in clause (v), by striking “July 1,  
 18 2006” each place it appears and inserting  
 19 “April 1, 2006”; and

20 (C) by striking clauses (vi) and (vii) and  
 21 inserting the following:

22 “(vi) RECAPTURE OF EXCESS INTER-  
 23 EST.—

24 “(I) EXCESS CREDITED.—With  
 25 respect to a loan on which the applica-

1 ble interest rate is determined under  
2 subsection (k) or (l) of section 427A  
3 and for which the first disbursement  
4 of principal is made on or after April  
5 1, 2006, if the applicable interest rate  
6 for any 3-month period exceeds the  
7 special allowance support level appli-  
8 cable to such loan under this subpara-  
9 graph for such period, then an adjust-  
10 ment shall be made by calculating the  
11 excess interest in the amount com-  
12 puted under subclause (II) of this  
13 clause, and by crediting the excess in-  
14 terest to the Government not less  
15 often than annually.

16 “(II) CALCULATION OF EX-  
17 CESS.—The amount of any adjust-  
18 ment of interest on a loan to be made  
19 under this subsection for any quarter  
20 shall be equal to—

21 “(aa) the applicable interest  
22 rate minus the special allowance  
23 support level determined under  
24 this subparagraph; multiplied by

1                   “(bb) the average daily prin-  
2                   cipal balance of the loan (not in-  
3                   cluding unearned interest added  
4                   to principal) during such cal-  
5                   endar quarter; divided by

6                   “(cc) four.

7                   “(III) SPECIAL ALLOWANCE SUP-  
8                   PORT LEVEL.—For purposes of this  
9                   clause, the term ‘special allowance  
10                  support level’ means, for any loan, a  
11                  number expressed as a percentage  
12                  equal to the sum of the rates deter-  
13                  mined under subclauses (I) and (III)  
14                  of clause (i), and applying any substi-  
15                  tution rules applicable to such loan  
16                  under clauses (ii), (iii), and (iv) in de-  
17                  termining such sum.”.

18                  (2) EFFECTIVE DATE.—The amendments made  
19                  by this subsection shall not apply with respect to  
20                  any special allowance payment made under section  
21                  438 of the Higher Education Act of 1965 (20 U.S.C  
22                  1087–1) before April 1, 2006.

1 **SEC. 7105. REDUCTION OF LENDER INSURANCE REIM-**  
 2 **BURSEMENT RATES.**

3 (a) AMENDMENT.—Subparagraph (G) of section  
 4 428(b)(1) of the Higher Education Act of 1965 (20  
 5 U.S.C. 1078(b)(1)) is amended to read as follows:

6 “(G) insures 97 percent of the unpaid  
 7 principal of loans insured under the program;”.

8 (b) EFFECTIVE DATE.—The amendment made by  
 9 subsection (a) shall apply with respect to any loan made,  
 10 insured, or guaranteed under part B of title IV of the  
 11 Higher Education Act of 1965 (20 U.S.C. 1071 et seq.)  
 12 for which the first disbursement is made on or after Janu-  
 13 ary 1, 2006.

14 **SEC. 7106. GUARANTY AGENCY ORIGINATION FEE.**

15 (a) AMENDMENT.—Section 428(b)(1)(H) of the  
 16 Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H))  
 17 is amended to read as follows:

18 “(H) provides for the collection, and the  
 19 deposit in the Federal Fund established under  
 20 section 422A(a), of a guaranty agency origina-  
 21 tion fee of 1.0 percent of each disbursement of  
 22 the proceeds of the loan, which fee may be pro-  
 23 vided from funds in the guaranty agency’s oper-  
 24 ating fund under section 422B or from other  
 25 non-Federal funds;”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall be effective with respect to any loan  
3 disbursed under part B of title IV of the Higher Edu-  
4 cation Act of 1965 on or after April 1, 2006.

5 **SEC. 7107. DEFERMENT OF STUDENT LOANS FOR MILITARY**  
6 **SERVICE.**

7 (a) FEDERAL FAMILY EDUCATION LOANS.—Section  
8 428(b)(1)(M) of the Higher Education Act of 1965 (20  
9 U.S.C. 1078(b)(1)(M)) is amended—

10 (1) by striking “or” at the end of clause (ii);

11 (2) by redesignating clause (iii) as clause (iv);

12 and

13 (3) by inserting after clause (ii) the following

14 new clause:

15 “(iii) not in excess of 3 years during

16 which the borrower—

17 “(I) is serving on active duty

18 during a war or other military oper-

19 ation or national emergency; or

20 “(II) is performing qualifying

21 National Guard duty during a war or

22 other military operation or national

23 emergency; or”.

1 (b) DIRECT LOANS.—Section 455(f)(2) of the Higher  
2 Education Act of 1965 (20 U.S.C. 1087e(f)(2)) is  
3 amended—

4 (1) by redesignating subparagraph (C) as sub-  
5 paragraph (D); and

6 (2) by inserting after subparagraph (B) the fol-  
7 lowing new subparagraph:

8 “(C) not in excess of 3 years during which  
9 the borrower—

10 “(i) is serving on active duty during a  
11 war or other military operation or national  
12 emergency; or

13 “(ii) is performing qualifying National  
14 Guard duty during a war or other military  
15 operation or national emergency; or”.

16 (c) PERKINS LOANS.—Section 464(c)(2)(A) of the  
17 Higher Education Act of 1965 (20 U.S.C.  
18 1087dd(c)(2)(A)) is amended—

19 (1) by redesignating clauses (iii) and (iv) as  
20 clauses (iv) and (v), respectively; and

21 (2) by inserting after clause (ii) the following  
22 new clause:

23 “(iii) not in excess of 3 years during  
24 which the borrower—

1                   “(I) is serving on active duty  
2                   during a war or other military oper-  
3                   ation or national emergency; or

4                   “(II) is performing qualifying  
5                   National Guard duty during a war or  
6                   other military operation or national  
7                   emergency;”.

8           (d) DEFINITIONS.—Section 481 of the Higher Edu-  
9   cation Act of 1965 (20 U.S.C. 1088) is amended by add-  
10 ing at the end the following new subsection:

11           “(d) DEFINITIONS FOR MILITARY DEFERMENTS.—  
12 For purposes of parts B, D, and E of this title:

13                   “(1) ACTIVE DUTY.—The term ‘active duty’ has  
14                   the meaning given such term in section 101(d)(1) of  
15                   title 10, United States Code, except that such term  
16                   does not include active duty for training or attend-  
17                   ance at a service school.

18                   “(2) MILITARY OPERATION.—The term ‘mili-  
19                   tary operation’ means a contingency operation as  
20                   such term is defined in section 101(a)(13) of title  
21                   10, United States Code.

22                   “(3) NATIONAL EMERGENCY.—The term ‘na-  
23                   tional emergency’ means the national emergency by  
24                   reason of certain terrorist attacks declared by the  
25                   President on September 14, 2001, or subsequent na-

1 tional emergencies declared by the President by rea-  
2 son of terrorist attacks.

3 “(4) SERVING ON ACTIVE DUTY.—The term  
4 ‘serving on active duty during a war or other mili-  
5 tary operation or national emergency’ means service  
6 by an individual who is—

7 “(A) a Reserve of an Armed Force ordered  
8 to active duty under section 12301(a),  
9 12301(g), 12302, 12304, or 12306 of title 10,  
10 United States Code, or any retired member of  
11 an Armed Force ordered to active duty under  
12 section 688 of such title, for service in connec-  
13 tion with a war or other military operation or  
14 national emergency, regardless of the location  
15 at which such active duty service is performed;  
16 and

17 “(B) any other member of an Armed Force  
18 on active duty in connection with such emer-  
19 gency or subsequent actions or conditions who  
20 has been assigned to a duty station at a loca-  
21 tion other than the location at which such mem-  
22 ber is normally assigned.

23 “(5) QUALIFYING NATIONAL GUARD DUTY.—  
24 The term ‘qualifying National Guard duty during a  
25 war or other military operation or national emer-

1       gency’ means service as a member of the National  
2       Guard on full-time National Guard duty (as defined  
3       in section 101(d)(5) of title 10, United States Code)  
4       under a call to active service authorized by the  
5       President or the Secretary of Defense for a period  
6       of more than 30 consecutive days under section  
7       502(f) of title 32, United States Code, in connection  
8       with a war, other military operation, or a national  
9       emergency declared by the President and supported  
10      by Federal funds.”.

11      (e) **RULE OF CONSTRUCTION.**—Nothing in the  
12      amendments made by this section shall be construed to  
13      authorize any refunding of any repayment of a loan.

14      (f) **EFFECTIVE DATE.**—The amendments made by  
15      this section shall apply with respect to loans for which the  
16      first disbursement is made on or after July 1, 2001.

17      **SEC. 7108. RECOVERY THROUGH CONSOLIDATION.**

18      Section 428(c) of the Higher Education Act of 1965  
19      (20 U.S.C 1078(c)) is amended—

20              (1) in paragraph (2)(A)—

21                      (A) by inserting “(i)” after “including”;

22                      and

23                      (B) by inserting before the semicolon at  
24                      the end the following: “and (ii) requirements es-  
25                      tablishing procedures to preclude consolidation

1           lending from being an excessive proportion of  
2           guaranty agency recoveries on defaulted loans  
3           under this part”;

4           (2) in paragraph (2)(D), by striking “para-  
5           graph (6)” and inserting “paragraph (6)(A)”; and

6           (3) in paragraph (6)—

7                 (A) by inserting “(A)” before “For the  
8                 purposes of paragraph (2)(D),”;

9                 (B) by redesignating subparagraphs (A)  
10                and (B) as clauses (i) and (ii), respectively; and

11                (C) by adding at the end the following new  
12                subparagraphs:

13                “(B) GUARANTY AGENCY OBLIGATIONS.—A  
14                guaranty agency shall—

15                    “(i) on or after October 1, 2006—

16                         “(I) not charge the borrower collec-  
17                         tion costs in an amount in excess of 18.5  
18                         percent of the outstanding principal and  
19                         interest of a defaulted loan that is paid off  
20                         through consolidation by the borrower  
21                         under this title; and

22                         “(II) remit to the Secretary a portion  
23                         of the collection charge under subclause (I)  
24                         equal to 8.5 percent of the outstanding

1 principal and interest of such defaulted  
2 loan; and

3 “(ii) on and after October 1, 2009, remit  
4 to the Secretary the entire amount charged  
5 under clause (i)(I) with respect to each de-  
6 faulted loan that is paid off with excess consoli-  
7 dation proceeds.

8 “(C) EXCESS CONSOLIDATION PRO-  
9 CEEDS.—For purposes of subparagraph (B),  
10 the term ‘excess consolidation proceeds’ means,  
11 with respect to any guaranty agency for any  
12 Federal fiscal year beginning on or after Octo-  
13 ber 1, 2009, the proceeds of consolidation of de-  
14 faulted loans under this title that exceed 45  
15 percent of the agency’s total collections on de-  
16 faulted loans in such Federal fiscal year.”.

17 **SEC. 7109. SINGLE HOLDER RULE.**

18 Subparagraph (A) of section 428C(b)(1) of the High-  
19 er Education Act of 1965 (20 U.S.C. 1078–3(b)(1)) is  
20 amended by striking “and (i)” and all that follows through  
21 “so selected for consolidation”).

22 **SEC. 7110. DEFAULT REDUCTION PROGRAM.**

23 Section 428F(a)(1) of the Higher Education Act of  
24 1965 (20 U.S.C. 1078–6(a)(1)) is amended—

1           (1) in subparagraph (A), by striking “consecu-  
2           tive payments for 12 months” and inserting “9 pay-  
3           ments made within 20 days of the due date during  
4           10 consecutive months”;

5           (2) by redesignating subparagraph (C) as sub-  
6           paragraph (D); and

7           (3) by inserting after subparagraph (B) the fol-  
8           lowing new subparagraph:

9                   “(C) A guaranty agency may charge the  
10                  borrower and retain collection costs in an  
11                  amount not to exceed 18.5 percent of the out-  
12                  standing principal and interest at the time of  
13                  sale of a loan rehabilitated under subparagraph  
14                  (A).”.

15 **SEC. 7111. REQUIREMENTS FOR DISBURSEMENTS OF STU-**  
16 **DENT LOANS.**

17           Section 428G of the Higher Education Act of 1965  
18 (20 U.S.C. 1078–7) is amended—

19           (1) in subsection (a)(3), by adding at the end  
20           the following: “Notwithstanding section 422(d) of  
21           the Higher Education Amendments of 1998, this  
22           paragraph shall be effective beginning on the date of  
23           enactment of the Higher Education Amendments of  
24           2005.”; and

1           (2) in subsection (b)(1), by adding at the end  
2           the following: “Notwithstanding section 422(d) of  
3           the Higher Education Amendments of 1998, the sec-  
4           ond sentence of this paragraph shall be effective be-  
5           ginning on the date of enactment of the Higher  
6           Education Amendments of 2005.”.

7 **SEC. 7112. SPECIAL INSURANCE AND REINSURANCE RULES.**

8           (a) REPEAL.—Section 428I of the Higher Education  
9           Act of 1965 (20 U.S.C. 1078–9) is repealed.

10          (b) CONFORMING AMENDMENTS.—Part A of title IV  
11          of the Higher Education Act of 1965 (20 U.S.C.1070 et  
12          seq.) is amended—

13                 (1) in section 428(c)(1)—

14                         (A) by striking subparagraph (D); and

15                         (B) by redesignating subparagraphs (E)  
16                         and (F) as subparagraphs (D) and (E), respec-  
17                         tively; and

18                 (2) in section 438(b)(5), by striking the matter  
19                 following subparagraph (B).

20 **SEC. 7113. SCHOOL AS LENDER MORATORIUM.**

21          Section 435(d)(2) of the Higher Education Act of  
22          1965 (20 U.S.C. 1085(d)(2)) is amended—

23                 (1) in subparagraph (E), by striking “and”  
24                 after the semicolon; and

1           (2) by inserting before the matter following  
2           subparagraph (F) (as amended by section 7390) the  
3           following:

4                   “(G) shall have met the requirements of  
5                   subparagraphs (A) through (F), and made  
6                   loans under this part, on or before August 31,  
7                   2005;

8                   “(H) shall hold each loan the eligible insti-  
9                   tution makes under this part to a student en-  
10                   rolled at the eligible institution until the stu-  
11                   dent enters into a grace period described in sec-  
12                   tion 427(a)(2)(B) or 428(b)(7);

13                   “(I) shall use the proceeds from the sale of  
14                   a loan made under this part, for need based  
15                   grant aid programs, except that such  
16                   proceeds—

17                           “(i) shall not be used to provide a  
18                           grant to a student for an academic year in  
19                           an amount that is more than the student’s  
20                           cost of attendance for the academic year;  
21                           and

22                           “(ii) shall supplement and not sup-  
23                           plant other Federal, State, and institu-  
24                           tional grant aid; and

1           “(J) shall not be a foundation or alumni  
2           organization;”.

3 **SEC. 7114. PERMANENT REDUCTION OF SPECIAL ALLOW-**  
4 **ANCE PAYMENTS FOR LOANS FROM THE PRO-**  
5 **CEEDS OF TAX EXEMPT ISSUES.**

6           (a) **TECHNICAL CLARIFICATION.**—The matter pre-  
7           ceding paragraph (1) of section 2 of the Taxpayer-Teacher  
8           Protection Act of 2004 (Public Law 108–409; 118 Stat.  
9           2299) is amended by inserting “of the Higher Education  
10          Act of 1965” after “Section 438(b)(2)(B)”. The amend-  
11          ment made by the preceding sentence shall be effective as  
12          if enacted on October 30, 2004.

13          (b) **AMENDMENT.**—Section 438(b)(2)(B) of the  
14          Higher Education Act of 1965 (20 U.S.C. 1087–  
15          1(b)(2)(B)) is amended—

16                 (1) in clause (iv), by striking “and before Janu-  
17                 ary 1, 2006,”; and

18                 (2) in clause (v)(II)—

19                         (A) in item (aa), by striking “and before  
20                         January 1, 2006,”;

21                         (B) in item (bb), by striking “and before  
22                         January 1, 2006,”; and

23                         (C) in item (cc), by striking “and before  
24                         January 1, 2006,”.

1 **SEC. 7115. SPECIAL ALLOWANCES.**

2 (a) **ORIGINATION FEES.**—Paragraph (2) of section  
3 438(c) of the Higher Education Act of 1965 (20 U.S.C.  
4 1087–1(c)) is amended—

5 (1) by striking the designation and heading of  
6 such paragraph and inserting the following:

7 “(2) **AMOUNT OF ORIGINATION FEES.**—

8 “(A) **IN GENERAL.**—”; and

9 (2) by adding at the end the following new sub-  
10 paragraph:

11 “(B) **SUBSEQUENT REDUCTIONS.**—Sub-  
12 paragraph (A) shall be applied to loans made  
13 under this part (other than loans made under  
14 sections 428C and 439(o)) by substituting ‘2.50  
15 percent’ for ‘3.0 percent’ with respect to loans  
16 for which the first disbursement of principal is  
17 made on or after July 1, 2007.”.

18 (b) **LOAN FEES FROM LENDERS.**—

19 (1) **AMENDMENT.**—Paragraph (2) of section  
20 438(d)(2) of the Higher Education Act of 1965 (20  
21 U.S.C. 1087–1(d)) is amended to read as follows:

22 “(2) **AMOUNT OF LOAN FEES.**—

23 “(A) **IN GENERAL.**—Except as provided in  
24 subparagraph (B), with respect to any loan  
25 made under this part for which the first dis-  
26 bursement was made on or after October 1,

1           1993, the amount of the loan fee that shall be  
2           deducted under paragraph (1) shall be equal to  
3           0.50 percent of the principal amount of the  
4           loan.

5           “(B) CONSOLIDATION LOANS.—With re-  
6           spect to any loan made under section 428C on  
7           or after April 1, 2006, the amount of the loan  
8           fee that shall be deducted under paragraph (1)  
9           shall be equal to 1.0 percent of the principal  
10          amount of the loan.”.

11          (2) EFFECTIVE DATE.—The amendment made  
12          by paragraph (1) shall apply with respect to any  
13          loan made, insured, or guaranteed under part B of  
14          title IV of the Higher Education Act of 1965 (20  
15          U.S.C. 1071 et seq.) for which the first disburse-  
16          ment is made on or after April 1, 2006.

17 **SEC. 7116. ORIGINATION FEE.**

18          Section 455(c) of the Higher Education Act of 1965  
19 (20 U.S.C. 1087e(c)) is amended—

20           (1) by striking “shall” and inserting “is author-  
21           ized to”; and

22           (2) by striking “4.0 percent of the principal  
23           amount of loan” and inserting “not less than 1 per-  
24           cent and not more than 3 percent of the principal  
25           amount of the loan, except that the Secretary shall

1 charge the borrower of a Federal Direct PLUS Loan  
 2 an origination fee of 4.0 percent of the principal  
 3 amount of the loan. Beginning on July 1, 2007, the  
 4 preceding sentence shall be applied by substituting  
 5 ‘2.5 percent’ for ‘3 percent’.”

6 **SEC. 7117. INCOME CONTINGENT REPAYMENT FOR PUBLIC**  
 7 **SECTOR EMPLOYEES.**

8 Section 455(e) of the Higher Education Act of 1965  
 9 (20 U.S.C. 1087e(e)) is amended by adding at the end  
 10 the following:

11 “(7) REPAYMENT PLAN FOR PUBLIC SECTOR  
 12 EMPLOYEES.—

13 “(A) IN GENERAL.—The Secretary shall  
 14 forgive the balance due on any loan made under  
 15 this part or section 428C(b)(5) for a  
 16 borrower—

17 “(i) who has made 120 payments on  
 18 such loan pursuant to income contingent  
 19 repayment; and

20 “(ii) who is employed, and was em-  
 21 ployed for the 10-year period in which the  
 22 borrower made the 120 payments de-  
 23 scribed in clause (i), in a public sector job.

24 “(B) PUBLIC SECTOR JOB.—In this para-  
 25 graph, the term ‘public sector job’ means a full-



1 **SEC. 7119. FAMILY CONTRIBUTION FOR INDEPENDENT STU-**  
 2 **DENTS WITHOUT DEPENDENTS OTHER THAN**  
 3 **A SPOUSE.**

4 (a) AMENDMENTS.—Section 476 of the Higher Edu-  
 5 cation Act of 1965 (20 U.S.C.1087pp) is amended—

6 (1) in subsection (b)(1)(A)(iv)—

7 (A) in subclause (I), by striking “\$5,000”  
 8 and inserting “\$6,050”;

9 (B) in subclause (II), by striking “\$5,000”  
 10 and inserting “\$6,050”; and

11 (C) in subclause (III), by striking  
 12 “\$8,000” and inserting “\$9,700”; and

13 (2) in subsection (c)(4), by striking “35” and  
 14 inserting “20”.

15 (b) EFFECTIVE DATE.—The amendments made by  
 16 subsection (a) shall apply with respect to determinations  
 17 of need for periods of enrollment beginning on or after  
 18 July 1, 2007.

19 **SEC. 7120. FAMILY CONTRIBUTION FOR INDEPENDENT STU-**  
 20 **DENTS WITH DEPENDENTS OTHER THAN A**  
 21 **SPOUSE.**

22 (a) AMENDMENT.—Section 477(c)(4) of the Higher  
 23 Education Act of 1965 (20 U.S.C. 1087qq(c)(4)) is  
 24 amended by striking “12” and inserting “7”.

25 (b) EFFECTIVE DATE.—The amendment made by  
 26 subsection (a) shall apply with respect to determinations

1 of need for periods of enrollment beginning on or after  
2 July 1, 2007.

3 **SEC. 7121. REGULATIONS; UPDATED TABLES.**

4 Section 478(b) of the Higher Education Act of 1965  
5 (20 U.S.C. 1087rr(b)) is amended—

6 (1) in paragraph (1), by adding at the end the  
7 following: “For the 2007–2008 academic year, the  
8 Secretary shall revise the tables in accordance with  
9 this paragraph, except that the Secretary shall in-  
10 crease the amounts contained in the table in section  
11 477(b)(4) by a percentage equal to the greater of  
12 the estimated percentage increase in the Consumer  
13 Price Index (as determined under the preceding sen-  
14 tence) or 5 percent.”; and

15 (2) in paragraph (2), by striking “2000–2001”  
16 and inserting “2007–2008”.

17 **SEC. 7122. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO**  
18 **IMPROVEMENTS.**

19 (a) AMENDMENTS.—Section 479 of the Higher Edu-  
20 cation Act of 1965 (20 U.S.C. 1087ss) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1)—

23 (i) in subparagraph (A), by striking  
24 clause (i) and inserting the following:

25 “(i) the student’s parents—

1 “(I) file, or are eligible to file, a  
2 form described in paragraph (3);

3 “(II) certify that the parents are  
4 not required to file a Federal income  
5 tax return; or

6 “(III) received, or the student re-  
7 ceived, benefits at some time during  
8 the previous 12-month period under a  
9 means-tested Federal benefit program  
10 as defined under subsection (d); and”;  
11 and

12 (ii) in subparagraph (B), by striking  
13 clause (i) and inserting the following:

14 “(i) the student (and the student’s  
15 spouse, if any)—

16 “(I) files, or is eligible to 1 file,  
17 a form described in paragraph (3);

18 “(II) certifies that the student  
19 (and the student’s spouse, if any) is  
20 not required to file a Federal income  
21 tax return; or

22 “(III) received benefits at some  
23 time during the previous 12-month  
24 period under a means-tested Federal

1 benefit program as defined under sub-  
2 section (d); and”;

3 (B) in the matter preceding subparagraph  
4 (A) of paragraph (3), by striking “A student or  
5 family files a form described in this subsection,  
6 or subsection (c), as the case maybe, if the stu-  
7 dent or family, respectively, files” and inserting  
8 “In the case of an independent student, the stu-  
9 dent, or in the case of a dependent student, the  
10 family, files a form described in this subsection,  
11 or subsection (c), as the case may be, if the stu-  
12 dent or family, as appropriate, files”;

13 (2) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) by striking subparagraph (A) and  
16 inserting the following:

17 “(A) the student’s parents—

18 “(i) file, or are eligible to file, a form  
19 described in subsection (b)(3);

20 “(ii) certify that the parents are not  
21 required to file a Federal income tax re-  
22 turn; or

23 “(iii) received, or the student received,  
24 benefits at some time during the previous  
25 12-month period under a means-tested

1 Federal benefit program as defined under  
2 subsection (d); and”;

3 (ii) by striking subparagraph (B) and  
4 inserting the following:

5 “(B) the sum of the adjusted gross income  
6 of the parents is less than or equal to \$20,000;  
7 or”;

8 (B) in paragraph (2)—

9 (i) by striking subparagraph (A) and  
10 inserting the following:

11 “(A) the student (and the student’s  
12 spouse, if any)—

13 “(i) files, or is eligible to file, a form  
14 described in subsection (b)(3);

15 “(ii) certifies that the student (and  
16 the student’s spouse, if any) is not re-  
17 quired to file a Federal income tax return;  
18 or

19 “(iii) received benefits at some time  
20 during the previous 12-month period under  
21 a means-tested Federal benefit program as  
22 defined under subsection (d); and”;

23 (ii) by striking subparagraph (B) and  
24 inserting the following:

1           “(B) the sum of the adjusted gross income  
2           of the student and spouse (if appropriate) is  
3           less than or equal to \$20,000.”; and

4           (3) by adding at the end the following:

5           “(d) DEFINITIONS.—In this section:

6           “(1) MEANS-TESTED FEDERAL BENEFIT PRO-  
7           GRAM.—In this section, the term “means-tested  
8           Federal benefit program” means a mandatory  
9           spending program of the Federal Government, other  
10          than a program under this title, in which eligibility  
11          for the program’s benefits, or the amount of such  
12          benefits, are determined on the basis of income or  
13          resources of the individual or family seeking the ben-  
14          efit, and may include such programs as—

15               “(A) the supplemental security income pro-  
16               gram under title XVI of the Social Security Act  
17               (42 U.S.C. 1381 et seq.);

18               “(B) the food stamp program under the  
19               Food Stamp Act of 1977 (7 U.S.C. 2011 et  
20               seq.);

21               “(C) the free and reduced price school  
22               lunch program established under the Richard  
23               B. Russell National School Lunch Act (42  
24               U.S.C. 1751 et seq.);

1           “(D) the program of block grants for  
2 States for temporary assistance for needy fami-  
3 lies established under part A of title IV of the  
4 Social Security Act (42 U.S.C. 601 et seq.);

5           “(E) the special supplemental nutrition  
6 program for women, infants, and children es-  
7 tablished by section 17 of the Child Nutrition  
8 Act of 1966 (42 U.S.C. 1786); and

9           “(F) other programs identified by the Sec-  
10 retary.”.

11 (b) EVALUATION OF SIMPLIFIED NEEDS TEST.—

12           (1) ELIGIBILITY GUIDELINES.—The Secretary  
13 of Education shall regularly evaluate the impact of  
14 the eligibility guidelines in subsections (b)(1)(A)(i),  
15 (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479  
16 of the Higher Education Act of 1965 (20 U.S.C.  
17 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and  
18 (c)(2)(A)).

19           (2) MEANS-TESTED FEDERAL BENEFIT PRO-  
20 GRAM.—For each 3-year period, the Secretary of  
21 Education shall evaluate the impact of including the  
22 receipt of benefits by a student or parent under a  
23 means-tested Federal benefit program (as defined in  
24 section 479(d) of the Higher Education Act of 1965  
25 (20 U.S.C. 1087ss(d)) as a factor in determining eli-

1 gibility under subsections (b) and (c) of section 479  
 2 of the Higher Education Act of 1965 (20 U.S.C.  
 3 1087ss(b) and (c)).

4 **SEC. 7123. LOAN FORGIVENESS FOR TEACHERS.**

5 Section 3(b)(3) of the Taxpayer-Teacher Protection  
 6 Act of 2004 (20 U.S.C. 1078–10 note) is amended by  
 7 striking “, and before October 1, 2005”.

8 **SEC. 7124. EFFECTIVE DATE.**

9 Except as otherwise provided in this chapter or the  
 10 amendments made by this chapter, the amendments made  
 11 by this chapter shall take effect on July 1, 2006.

12 **CHAPTER 2—HURRICANE KATRINA**  
 13 **HIGHER EDUCATION RECOVERY**

14 **SEC. 7151. SHORT TITLE.**

15 This chapter may be cited as the “Hurricane Katrina  
 16 Higher Education Recovery Act”.

17 **SEC. 7152. DEFINITIONS.**

18 In this chapter:

19 (1) **AFFECTED BORROWER.**—The term “af-  
 20 fected borrower” means an individual who—

21 (A) was in repayment, but not in  
 22 deferment, on a loan made, insured, or guaran-  
 23 teed under part B, D, or E of the Higher Edu-  
 24 cation Act of 1965 (20 U.S.C. 1071 et seq.,  
 25 1087a et seq., 1087aa et seq.) on August 22,

1           2005, or enters or entered repayment after Au-  
2           gust 22, 2005 and before June 30, 2006; and

3           (B)(i) lives or lived, as of August 22,  
4           2005, in a county or parish of Alabama, Lou-  
5           isiana, or Mississippi—

6           (I) in which a major disaster has been  
7           declared in accordance with section 401 of  
8           the Robert T. Stafford Disaster Relief and  
9           Emergency Assistance Act (42 U.S.C.  
10          5170) as a result of Hurricane Katrina;  
11          and

12          (II) which the President has deter-  
13          mined warrants individual assistance from  
14          the Federal Government; or

15          (ii) worked, as of August 22, 2005, in a  
16          county or parish described in clause (i).

17          (2) AFFECTED INSTITUTION.—

18          (A) IN GENERAL.—The term “affected in-  
19          stitution” means an institution of higher edu-  
20          cation, as defined in section 101 or 102 of the  
21          Higher Education Act of 1965 (20 U.S.C.  
22          1001, 1002), that—

23          (i) is located in an area in which a  
24          major disaster has been declared in accord-  
25          ance with section 401 of the Robert T.

1           Stafford Disaster Relief and Emergency  
2           Assistance Act due to the effects of Hurri-  
3           cane Katrina; and

4           (ii) is impacted by Hurricane Katrina.

5           (B) LENGTH OF TIME.—In determining  
6           eligibility for assistance under this chapter, the  
7           Secretary, using consistent, objective criteria,  
8           shall determine the time period for which an in-  
9           stitution of higher education is an affected in-  
10          stitution.

11          (C) SPECIAL RULE.—An organizational  
12          unit of an affected institution that is not im-  
13          pacted by Hurricane Katrina shall not be con-  
14          sidered as part of such affected institution for  
15          purposes of receiving assistance under this  
16          chapter.

17          (3) AFFECTED STUDENT.—The term “affected  
18          student” means a student who was enrolled on Au-  
19          gust 29, 2005 in an affected institution.

20          (4) DISTANCE EDUCATION.—

21          (A) IN GENERAL.—The term “distance  
22          education” means a course or program that  
23          uses 1 or more of the technologies described in  
24          subparagraph (B) to—

1 (i) deliver instruction to students who  
2 are separated from the instructor; and

3 (ii) support regular and substantive  
4 interaction between the students and the  
5 instructor, either synchronously or asyn-  
6 chronously.

7 (B) INCLUSIONS.—For the purposes of  
8 subparagraph (A), the technologies used may  
9 include—

10 (i) the Internet;

11 (ii) one-way and two-way trans-  
12 missions through open broadcast, closed  
13 circuit, cable, microwave, broadband lines,  
14 fiber optics, satellite, or wireless commu-  
15 nications devices;

16 (iii) audio conferencing; or

17 (iv) video cassette, DVDs, and CD-  
18 ROMs, provided that they are used in a  
19 course in conjunction with the technologies  
20 listed in clauses (i) through (iii).

21 (5) SECRETARY.—The term “Secretary” means  
22 the Secretary of Education.

1 **SEC. 7153. WAIVER AUTHORITY AND MODIFICATIONS TO**  
2 **CERTAIN PROVISIONS OF THE HIGHER EDU-**  
3 **CATION ACT OF 1965.**

4 (a) **WAIVER OF INSTITUTIONAL REPAYMENT.**—Not-  
5 withstanding any other provision of law, including require-  
6 ments related to cash management, an affected institution  
7 shall not be required to return any funds received by the  
8 affected institution for, or on behalf of, its students under  
9 subparts 1 and 3 of part A and parts B, C, D, and E  
10 of title IV of the Higher Education Act of 1965 (20 U.S.C.  
11 1070, 1070b et seq., 1071 et seq., 1087a et seq., 1087aa  
12 et seq., 42 U.S.C. 2751 et seq.) during the 2005–2006  
13 academic year.

14 (b) **WAIVER OF STUDENT RETURN OF ASSIST-**  
15 **ANCE.**—Notwithstanding any other provision of law, an  
16 affected student who, as of the date of enactment of this  
17 Act, received assistance under subpart 1 or 3 of part A  
18 or parts B, C, D, or E of title IV of the Higher Education  
19 Act of 1965 for attendance at an affected institution of  
20 higher education during the 2005–2006 academic year,  
21 shall not be required to return such assistance.

22 (c) **AFFECTED STUDENTS WHO DO NOT ENROLL IN**  
23 **ANOTHER INSTITUTION AND BORROWERS IN GRACE PE-**  
24 **RIODS OR DEFERMENT.**—With respect to a loan made, in-  
25 sured, or guaranteed under part B, D, or E of title IV

1 of the Higher Education Act of 1965 (20 U.S.C. 1071  
2 et seq., 1087a et seq., 1087aa et seq.)—

3 (1) an affected student who does not enroll in  
4 another institution of higher education shall be re-  
5 tained in in-school status during the period begin-  
6 ning on August 22, 2005, and ending on June 30,  
7 2006; and

8 (2) a borrower in a grace period or in  
9 deferment as of August 22, 2005 who satisfies the  
10 requirement described in clause (i) or clause (ii) of  
11 section 201(1)(B) shall be retained in such status,  
12 without documentation or action by the borrower,  
13 until June 30, 2006.

14 (d) DISCHARGE OR CANCELLATION OF LOANS.—The  
15 Secretary shall—

16 (1) discharge all loan amounts under parts B  
17 and D of title IV of the Higher Education Act of  
18 1965 (20 U.S.C. 1071 et seq., 1087a et seq.) dis-  
19 bursed to, or on behalf of, an affected student for  
20 attendance at an affected institution of higher edu-  
21 cation during the 2005–2006 academic year;

22 (2) reimburse lenders for the purpose of dis-  
23 charging any loan amounts disbursed to, or on be-  
24 half of, a student under part B of title IV of the  
25 Higher Education Act of 1965 (20 U.S.C. 1071 et

1 seq.), for attendance at an affected institution of  
2 higher education during the 2005–2006 academic  
3 year; and

4 (3) cancel any loan under part E of title IV of  
5 the Higher Education Act of 1965 (20 U.S.C.  
6 1087aa et seq.) disbursed to a student for attend-  
7 ance at an affected institution of higher education  
8 during the 2005–2006 academic year.

9 (e) AGGREGATE AND ANNUAL LIMITS.—In the case  
10 of an affected student, any grant or loan assistance under  
11 title IV of the Higher Education Act of 1965 (20 U.S.C.  
12 1070 et seq.) that such student received, or was to have  
13 received, for a program of study at an affected institution  
14 of higher education during the 2005–2006 academic year  
15 shall not count against such student’s annual or aggregate  
16 grant or loan limits for receipt of aid under such title.

17 (f) FORBEARANCE.—Notwithstanding the provisions  
18 of part B, D, or E of title IV of the Higher Education  
19 Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,  
20 1087aa et seq.), a lender, the Secretary, or an institution  
21 of higher education is authorized to provide not more than  
22 1 year of forbearance to an affected borrower without doc-  
23 umentation.

24 (g) PROFESSIONAL JUDGMENT.—A financial aid ad-  
25 ministrator shall be considered to be making an adjust-

1 ment in accordance with section 479A(a) of the Higher  
 2 Education Act of 1965 (20 U.S.C. 1087tt(a)) if the finan-  
 3 cial aid administrator makes the adjustment with respect  
 4 to the calculation of the expected student or parent con-  
 5 tribution (or both) for an affected student, or for a stu-  
 6 dent or a parent who resides or resided on August 22,  
 7 2005, or was employed on August 22, 2005, in an area  
 8 in which a major disaster has been declared in accordance  
 9 with section 401 of the Robert T. Stafford Disaster Relief  
 10 and Emergency Assistance Act due to the effects of Hurri-  
 11 cane Katrina. The financial aid administrator shall ade-  
 12 quately document the need for the adjustment.

13 (h) MODIFICATION OF PART A OF TITLE II GRANTS  
 14 AUTHORIZED.—The Secretary is authorized to approve  
 15 modifications to the requirements for Teacher Quality En-  
 16 hancement Grants for States and Partnerships under part  
 17 A of title II of the Higher Education Act of 1965 (20  
 18 U.S.C. 1021 et seq.), at the request of the grantee—

19 (1) to assist States and local educational agen-  
 20 cies to recruit and retain highly qualified teachers in  
 21 a school district located in an area in which a major  
 22 disaster has been declared in accordance with section  
 23 401 of the Robert T. Stafford Disaster Relief and  
 24 Emergency Assistance Act due to the effects of Hur-  
 25 ricane Katrina; and

1           (2) to assist institutions of higher education, as  
2           defined in section 101 of such Act (20 U.S.C. 1001),  
3           located in such area to recruit and retain faculty  
4           necessary to prepare teachers and provide profes-  
5           sional development.

6           (i) WAIVER AUTHORITY TO MODIFY AUTHORIZED  
7           USES OF TRIO, GEAR-UP, PART A OR B OF TITLE III,  
8           AND OTHER GRANTS.—The Secretary is authorized to  
9           modify the required and allowable uses of funds under  
10          chapters 1 and 2 of subpart 2 of part A of title IV of  
11          the Higher Education Act of 1965 (20 U.S.C. 1070a et  
12          seq., 1070a–21 et seq.), under part A or B of title III  
13          (20 U.S.C. 1057 et seq., 1060 et seq.), and under any  
14          other competitive grant program, at the request of an af-  
15          fected institution or other grantee, with respect to affected  
16          institutions and other grantees located in an area in which  
17          a major disaster has been declared in accordance with sec-  
18          tion 401 of the Robert T. Stafford Disaster Relief and  
19          Emergency Assistance Act due to the effects of Hurricane  
20          Katrina.

21          (j) AUTHORITY TO EXTEND OR WAIVE REPORTING  
22          REQUIREMENTS UNDER SECTION 131(a).—The Secretary  
23          is authorized to extend reporting deadlines or waive re-  
24          porting requirements under section 131(a) of the Higher

1 Education Act of 1965 (20 U.S.C. 1015(a)) for an af-  
2 fected institution.

3 (k) DISTANCE EDUCATION.—The Secretary may  
4 waive the restrictions of subparagraphs (A) and (B) of  
5 section 102(a)(3) of the Higher Education Act of 1965  
6 (20 U.S.C. 1002(a)(3)(A) and (B)) with respect to an in-  
7 stitution of higher education, other than a foreign institu-  
8 tion, that offers education or training programs through  
9 distance education and is otherwise eligible to participate  
10 in programs authorized under title IV of such Act (20  
11 U.S.C. 1070 et seq.), if such institution exceeds such re-  
12 strictions described in such subparagraphs due to the en-  
13 rollment of affected students.

14 **SEC. 7154. GENERAL WAIVER AUTHORITY AND REQUIRED**  
15 **CONSULTATION.**

16 (a) WAIVER AUTHORITY.—

17 (1) IN GENERAL.—Notwithstanding any other  
18 provision of law, the Secretary may waive or modify  
19 any statutory provision of the Higher Education Act  
20 of 1965 (20 U.S.C. 1001 et seq.) or any regulation  
21 implementing such Act as the Secretary determines  
22 necessary in connection with a major disaster that  
23 has been declared in accordance with section 401 of  
24 the Robert T. Stafford Disaster Relief and Emer-

1 agency Assistance Act due to the effects of Hurricane  
2 Katrina.

3 (2) ACTIONS AUTHORIZED.—In carrying out  
4 paragraph (1), the Secretary is authorized to waive  
5 or modify any provision described in paragraph (1)  
6 as the Secretary determines necessary to ensure  
7 that—

8 (A) administrative requirements placed on  
9 affected students, affected borrowers, institu-  
10 tions of higher education, lenders, guaranty  
11 agencies and grantees are minimized to the ex-  
12 tent possible without impairing the integrity of  
13 the higher education programs under the High-  
14 er Education Act of 1965, to ease the burden  
15 on such participants; or

16 (B) institutions of higher education, lend-  
17 ers, guaranty agencies, and other entities par-  
18 ticipating in the student financial assistance  
19 programs under title IV of the Higher Edu-  
20 cation Act of 1965 (20 U.S.C. 1070 et seq.),  
21 that serve an area in which a major disaster  
22 has been declared in accordance with section  
23 401 of the Robert T. Stafford Disaster Relief  
24 and Emergency Assistance Act due to the ef-  
25 fects of Hurricane Katrina, may be granted



1 **SEC. 7156. REGULATORY REQUIREMENTS INAPPLICABLE.**

2 Sections 482(c) and 492 of the Higher Education Act  
3 of 1965 (20 U.S.C. 1089(c), 1098a), section 437 of the  
4 General Education Provisions Act (20 U.S.C. 1232), and  
5 section 553 of title 5, United States Code, shall not apply  
6 to this chapter.

7 **SEC. 7157. DEPARTMENT OF EDUCATION INSPECTOR GEN-**  
8 **ERAL AUDIT AND REPORT.**

9 (a) **IN GENERAL.**—The Inspector General of the De-  
10 partment of Education (referred to in this section as the  
11 “Inspector General”) shall conduct an audit and investiga-  
12 tion of each program carried out by the Department of  
13 Education that includes response and recovery activities  
14 related to Hurricane Katrina.

15 (b) **WEEKLY REPORT.**—Not less frequently than once  
16 a week, the Inspector General shall provide a report to  
17 the Committee on Health, Education, Labor, and Pen-  
18 sions and the Committee on Appropriations of the Senate  
19 and the Committee on Education and the Workforce and  
20 the Committee on Appropriations of the House of Rep-  
21 resentatives listing the audits and investigations initiated  
22 pursuant to subsection (a).

23 (c) **STATUS REPORT.**—Not later than 6 months after  
24 the date of enactment of this Act, and biannually there-  
25 after until the audits and investigations described in sub-  
26 section (a) are complete, the Inspector General shall re-

1 port to the Committee on Health, Education, Labor, and  
 2 Pensions and the Committee on Appropriations of the  
 3 Senate and the Committee on Education and the Work-  
 4 force and the Committee on Appropriations of the House  
 5 of Representatives on the full status of the activities of  
 6 the Inspector General under this section.

7 (d) COOPERATIVE VENTURES.—In carrying out this  
 8 section, the Inspector General is encouraged to enter into  
 9 cooperative ventures with Inspectors General of other Fed-  
 10 eral agencies.

11 **SEC. 7158. SUNSET PROVISION.**

12 Except as otherwise provided in this chapter, the pro-  
 13 visions of this chapter shall be effective for the period be-  
 14 ginning on the date of enactment of this Act and ending  
 15 on September 30, 2006.

16 **Subtitle B—Pension Benefit**  
 17 **Guaranty Corporation Premiums**

18 **SEC. 7201. AMENDMENTS TO THE EMPLOYEE RETIREMENT**

19 **INCOME SECURITY ACT OF 1974.**

20 (a) FLAT-RATE PREMIUMS.—

21 (1) SINGLE-EMPLOYER PLANS.—Section  
 22 4006(a)(3)(A)(i) of the Employee Retirement In-  
 23 come Security Act of 1974 (29 U.S.C.  
 24 1306(a)(3)(A)(i)) is amended to read as follows:

1           “(i) in the case of a single-employer plan, an  
2 amount equal to—

3           “(I) for plan years beginning after Decem-  
4 ber 31, 1990, and before January 1, 2006, \$19,  
5 or

6           “(II) except as provided in subparagraph  
7 (F), for plan years beginning after December  
8 31, 2005, \$46.75,  
9 plus the additional premium (if any) determined  
10 under subparagraph (E) for each individual who is  
11 a participant in such plan during the plan year;”.

12           (2)       MULTIEMPLOYER       PLANS.—Section  
13 4006(a)(3)(A) of such Act (29 U.S.C.  
14 1306(a)(3)(A)) is amended—

15           (A) in clause (iii), by—

16                   (i) inserting “and before January 1,  
17 2006,” after “Act of 1980;” and

18                   (ii) striking the period at the end and  
19 inserting “, or”; and

20           (B) by adding at the end the following:

21                   “(iv) in the case of a multiemployer  
22 plan an amount equal to the following for  
23 each individual who is a participant in  
24 such plan during the applicable plan year:

1                   “(I) \$8.00 for plan years begin-  
2                   ning in 2006.

3                   “(II) For plan years after De-  
4                   cember 31, 2006, the amount deter-  
5                   mined under subparagraph (G).

6                   (3) INDEXING OF FLAT-RATE PREMIUMS.—

7                   (A) SINGLE-EMPLOYER PREMIUMS.—Sec-  
8                   tion 4006(a)(3) of such Act (29 U.S.C.  
9                   1306(a)(3)), as amended by this Act, is amend-  
10                  ed by adding at the end the following:

11                  “(F) INDEXING OF SINGLE-EMPLOYER  
12                  FLAT-RATE PREMIUMS.—

13                  “(i) IN GENERAL.—In the case of any  
14                  plan year beginning after 2006, the ad-  
15                  justed amount under clause (ii) shall be  
16                  substituted for the dollar amount under  
17                  clause (i)(II) of subparagraph (A), if such  
18                  adjusted amount is greater than such dol-  
19                  lar amount.

20                  “(ii) ADJUSTED AMOUNT.—The ad-  
21                  justed amount for the dollar amount in  
22                  clause (i)(II) of subparagraph (A) for any  
23                  plan year is the product derived by multi-  
24                  plying such dollar amount by the ratio  
25                  of—

1                   “(I) the national average wage  
2                   index (as defined in section 209(k)(1)  
3                   of the Social Security Act) for the  
4                   first of the 2 calendar years preceding  
5                   the calendar year in which the plan  
6                   year begins, to

7                   “(II) the national average wage  
8                   index (as so defined) for 2004.

9                   If the amount determined under this  
10                  clause is not a multiple of \$1, such product  
11                  shall be rounded to the nearest multiple of  
12                  \$1.”.

13                  (B) MULTIEMPLOYER PREMIUMS—Section  
14                  4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)),  
15                  as amended by this Act, is amended by adding  
16                  at the end the following:

17                  “(G) INDEXING OF MULTIEMPLOYER  
18                  FLAT-RATE PREMIUMS.—The amount deter-  
19                  mined under this subparagraph is the product  
20                  derived by multiplying \$8.00 by the ratio of—

21                  “(i) the national average wage index  
22                  (as defined in section 209(k)(1) of the So-  
23                  cial Security Act) for the first of the 2 cal-  
24                  endar years preceding the calendar year in  
25                  which the plan year begins, to

1                   “(ii) the national average wage index  
 2                   (as defined in subparagraph (F)) for 2004.  
 3                   If the amount determined under this clause is  
 4                   not a multiple of \$1, such product shall be  
 5                   rounded to the nearest multiple of \$1.”.

6           (b) PREMIUM RATE FOR CERTAIN TERMINATED SIN-  
 7   GLE-EMPLOYER PLANS.—Section 4006(a) of such Act (29  
 8   U.S.C. 1306(a)) is amended by adding at the end the fol-  
 9   lowing:

10                   “(7) PREMIUM RATE FOR CERTAIN TERMI-  
 11   NATED SINGLE-EMPLOYER PLANS.—

12                   “(A) IN GENERAL.—If there is a termi-  
 13   nation of a single-employer plan under clause  
 14   (ii) or (iii) of section 4041(c)(2)(B) or section  
 15   4042, there shall be payable to the corporation,  
 16   with respect to each applicable 12-month pe-  
 17   riod, a premium at a rate equal to \$1,250 mul-  
 18   tiplied by the number of individuals who were  
 19   participants in the plan immediately before the  
 20   termination date. Such premium shall be in ad-  
 21   dition to any other premium under this section.

22                   “(B) SPECIAL RULE FOR PLANS TERMI-  
 23   NATED IN BANKRUPTCY REORGANIZATION.—  
 24   Subparagraph (A) shall not apply to a single-  
 25   employer plan terminated under section

1           4041(c)(2)(B)(ii) or under section 4042 during  
 2           pendency of any bankruptcy reorganization pro-  
 3           ceeding under chapter 11 of title 11, United  
 4           States Code, (or under any similar law of a  
 5           State or political subdivision of a State) until  
 6           the plan sponsor emerges from bankruptcy.

7           “(C) APPLICABLE 12-MONTH PERIOD.—

8           For purposes of subparagraph (A)—

9           “(i) IN GENERAL.—The term ‘applica-  
 10          ble 12-month period’ means—

11           “(I) the 12-month period begin-  
 12          ning with the first month following  
 13          the month in which the termination  
 14          date occurs, and

15           “(II) each of the first two 12-  
 16          month periods immediately following  
 17          the period described in subclause (I).

18           “(ii) PLANS TERMINATED IN BANK-  
 19          RUPTCY REORGANIZATION.—In the case of  
 20          a plan described under subparagraph (B),  
 21          the 12-month period described in clause  
 22          (i)(I) shall be the 12-month period begin-  
 23          ning with the first month following the  
 24          month which includes the date the plan  
 25          sponsor emerges from bankruptcy.

1           “(D) COORDINATION WITH SECTION  
2           4007.—For purposes of section 4007—

3           “(i) premiums under this paragraph  
4           shall be due within 30 days after the be-  
5           ginning of any applicable 12-month period,

6           “(ii) the fifth sentence of section  
7           4007(a) shall not apply, and

8           “(iii) the designated payor under sec-  
9           tion 4007(e)(1)(A) shall be the contrib-  
10          uting sponsor immediately before the ter-  
11          mination date.”.

12          (c) CONFORMING AMENDMENT.—Section  
13          4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is  
14          amended by striking “subparagraph (A)(iii)” and insert-  
15          ing “clause (iii) or (iv) of subparagraph (A)”.

16          (d) EFFECTIVE DATES.—

17               (1) IN GENERAL.—The amendments made by  
18               this section shall apply to plan years beginning after  
19               December 31, 2005.

20               (2) SPECIAL RULE FOR PLANS TERMINATED IN  
21               BANKRUPTCY.—The amendment made by subsection  
22               (b) shall not apply to a termination of a single-em-  
23               ployer plan that is terminated during the pendency  
24               of any bankruptcy reorganization proceeding under  
25               chapter 11 of title 11, United States Code (or under

1 any similar law of a State or political subdivision of  
 2 a State), if the proceeding is pursuant to a bank-  
 3 ruptcy filing occurring before October 18, 2005.

4 (3) SPECIAL RULE IF SUBSEQUENT SAVINGS  
 5 ENACTED.—The amendments made by this section  
 6 shall not take effect if, after the date of enactment  
 7 of this Act and before January 1, 2006, a Federal  
 8 law is enacted which—

9 (A) provides for decreases in Federal out-  
 10 lays which in the aggregate are not less than  
 11 the decreases in Federal outlays by reason of  
 12 the amendments made by this section; and

13 (B) specifically provides that such de-  
 14 creases are to be in lieu of the decreases in  
 15 Federal outlays by reason of the amendments  
 16 made by this section.

17 **Subtitle C—Higher Education**  
 18 **Reauthorization**

19 **CHAPTER 1—SHORT TITLE; REFERENCES;**  
 20 **GENERAL EFFECTIVE DATE**

21 **SEC. 7301. SHORT TITLE.**

22 (a) SHORT TITLE.—This subtitle may be cited as the  
 23 “Higher Education Amendments of 2005”.

1 **SEC. 7302. REFERENCES.**

2 Except as otherwise expressly provided, whenever in  
 3 this subtitle an amendment or repeal is expressed in terms  
 4 of an amendment to, or repeal of, a section or other provi-  
 5 sion, the reference shall be considered to be made to a  
 6 section or other provision of the Higher Education Act of  
 7 1965 (20 U.S.C. 1001 et seq.).

8 **SEC. 7303. GENERAL EFFECTIVE DATE.**

9 Except as otherwise provided in this subtitle or the  
 10 amendments made by this subtitle, the amendments made  
 11 by this subtitle shall take effect on July 1, 2006.

12 **CHAPTER 2—GENERAL PROVISIONS**

13 **SEC. 7311. ADDITIONAL DEFINITIONS.**

14 (a) AMENDMENT.—Section 103 (20 U.S.C. 1003) is  
 15 amended—

16 (1) by redesignating paragraphs (1) through  
 17 (16) as paragraphs (2) through (17), respectively;  
 18 and

19 (2) by inserting before paragraph (2) (as redес-  
 20 igned by paragraph (1)) the following:

21 “(1) AUTHORIZING COMMITTEES.—The term  
 22 ‘authorizing committees’ means the Committee on  
 23 Health, Education, Labor, and Pensions of the Sen-  
 24 ate and the Committee on Education and the Work-  
 25 force of the House of Representatives.”.

1 (b) CONFORMING AMENDMENTS.—The Act (20  
2 U.S.C. 1001 et seq.) is amended—

3 (1) in section 131(a)(3)(B) (20 U.S.C.  
4 1015(a)(3)(B)), by striking “Committee on Labor  
5 and Human Resources of the Senate and the Com-  
6 mittee on Education and the Workforce of the  
7 House of Representatives” and inserting “author-  
8 izing committees”;

9 (2) in section 141(d)(4)(B) (20 U.S.C.  
10 1018(d)(4)(B)), by striking “Committee on Edu-  
11 cation and the Workforce of the House of Rep-  
12 resentatives and the Committee on Labor and  
13 Human Resources of the Senate” and inserting “au-  
14 thorizing committees”;

15 (3) in section 207(c)(1) (20 U.S.C. 1027(c)(1)),  
16 by striking “Committee on Labor and Human Re-  
17 sources of the Senate and the Committee on Edu-  
18 cation and the Workforce of the House of Rep-  
19 resentatives” and inserting “authorizing commit-  
20 tees”;

21 (4) in section 401(f)(3) (20 U.S.C.  
22 1070a(f)(3)), by striking “to the Committee on Ap-  
23 propriations” and all that follows through “House of  
24 Representatives” and inserting “to the Committee  
25 on Appropriations of the Senate, the Committee on

1 Appropriations of the House of Representatives, and  
2 the authorizing committees”;

3 (5) in section 428 (20 U.S.C. 1078)—

4 (A) in subsection (c)(9)(K), by striking  
5 “House Committee on Education and the  
6 Workforce and the Senate Committee on Labor  
7 and Human Resources” and inserting “author-  
8 izing committees”;

9 (B) in the matter following paragraph (2)  
10 of subsection (g), by striking “Committee on  
11 Labor and Human Resources of the Senate and  
12 the Committee on Education and the Workforce  
13 of the House of Representatives” and inserting  
14 “authorizing committees”; and

15 (C) in subsection (n)(4), “Committee on  
16 Education and the Workforce of the House of  
17 Representatives and the Committee on Labor  
18 and Human Resources of the Senate” and in-  
19 serting “authorizing committees”;

20 (6) in section 428A (20 U.S.C. 1078–1)—

21 (A) in the matter preceding subparagraph  
22 (A) of subsection (a)(4), by striking “Com-  
23 mittee on Labor and Human Resources of the  
24 Senate and the Committee on Education and

1 the Workforce of the House of Representatives”  
2 and inserting “authorizing committees”; and

3 (B) in subsection (c)—

4 (i) in the matter preceding subpara-  
5 graph (A) of paragraph (2), by striking  
6 “Chairperson” and all that follows through  
7 “House of Representatives” and inserting  
8 “Chairpersons and Ranking Members of  
9 the authorizing committees”;

10 (ii) in paragraph (3), by striking  
11 “Chairperson” and all that follows through  
12 “House of Representatives” and inserting  
13 “Chairpersons and Ranking Members of  
14 the authorizing committees”; and

15 (iii) in paragraph (5), by striking  
16 “Chairperson” and all that follows through  
17 “House of Representatives” and inserting  
18 “Chairpersons and Ranking Members of  
19 the authorizing committees”;

20 (7) in section 432 (20 U.S.C. 1082)—

21 (A) in subsection (f)(1)(C), by striking  
22 “the Committee on Education and the Work-  
23 force of the House of Representatives or the  
24 Committee on Labor and Human Resources of

1 the Senate” and inserting “either of the author-  
2 izing committees”; and

3 (B) in the matter following subparagraph  
4 (D) of subsection (n)(3), by striking “Com-  
5 mittee on Education and the Workforce of the  
6 House of Representatives and the Committee  
7 on Labor and Human Resources of the Senate”  
8 and inserting “authorizing committees”;

9 (8) in section 437(c)(1) (20 U.S.C. 1087(c)(1)),  
10 by striking “Committee on Education and the Work-  
11 force of the House of Representatives and the Com-  
12 mittee on Labor and Human Resources of the Sen-  
13 ate” and inserting “authorizing committees”;

14 (9) in section 439 (20 U.S.C. 1087-2)—

15 (A) in subsection (d)(1)(E)(iii), by striking  
16 “advise the Chairman” and all that follows  
17 through “House of Representatives” and insert-  
18 ing “advise the Chairpersons and Ranking  
19 Members of the authorizing committees”;

20 (B) in subsection (r)—

21 (i) in paragraph (3), by striking “in-  
22 form the Chairman” and all that follows  
23 through “House of Representatives,” and  
24 inserting “inform the Chairpersons and

1 Ranking Members of the authorizing com-  
2 mittees”;

3 (ii) in paragraph (5)(B), by striking  
4 “plan, to the Chairman” and all that fol-  
5 lows through “Education and Labor” and  
6 inserting “plan, to the Chairpersons and  
7 Ranking Members of the authorizing com-  
8 mittees”;

9 (iii) in paragraph (6)(B)—

10 (I) by striking “plan, to the  
11 Chairman” and all that follows  
12 through “House of Representatives”  
13 and inserting “plan, to the Chair-  
14 persons and Ranking Members of the  
15 authorizing committees”; and

16 (II) by striking “Chairmen and  
17 ranking minority members of such  
18 Committees” and inserting “Chair-  
19 persons and Ranking Members of the  
20 authorizing committees”;

21 (iv) in paragraph (8)(C), by striking  
22 “implemented to the Chairman” and all  
23 that follows through “House of Represent-  
24 atives, and” and inserting “implemented to

1 the Chairpersons and Ranking Members of  
2 the authorizing committees, and to”; and

3 (v) in the matter preceding subpara-  
4 graph (A) of paragraph (10), by striking  
5 “days to the Chairman” and all that fol-  
6 lows through “Education and Labor” and  
7 inserting “days to the Chairpersons and  
8 Ranking Members of the authorizing com-  
9 mittees”; and

10 (C) in subsection (s)(2)—

11 (i) in the matter preceding clause (i)  
12 of subparagraph (A), by striking “Treas-  
13 ury and to the Chairman” and all that fol-  
14 lows through “House of Representatives”  
15 and inserting “Treasury and to the Chair-  
16 persons and Ranking Members of the au-  
17 thorizing committees”; and

18 (ii) in subparagraph (B), by striking  
19 “Treasury and to the Chairman” and all  
20 that follows through “House of Represent-  
21 atives” and inserting “Treasury and to the  
22 Chairpersons and Ranking Members of the  
23 authorizing committees”;

24 (10) in section 455(b)(8)(B) (20 U.S.C.  
25 1087e(b)(8)(B)), by striking “Committee on Labor

1 and Human Resources of the Senate and the Com-  
2 mittee on Education and the Workforce of the  
3 House of Representatives” and inserting “author-  
4 izing committees”;

5 (11) in section 482(d) (20 U.S.C. 1089(d)), by  
6 striking “Committee on Labor and Human Re-  
7 sources of the Senate and the Committee on Edu-  
8 cation and Labor of the House of Representatives”  
9 and inserting “authorizing committees”;

10 (12) in section 483(e) (20 U.S.C. 1090(e)), by  
11 striking “Committee on Labor and Human Re-  
12 sources of the Senate and the Committee on Edu-  
13 cation and the Workforce of the House of Rep-  
14 resentatives” and inserting “authorizing commit-  
15 tees”;

16 (13) in section 485 (20 U.S.C. 1092)—

17 (A) in subsection (f)(5)(A), by striking  
18 “Committee on Education and the Workforce of  
19 the House of Representatives and the Com-  
20 mittee on Labor and Human Resources of the  
21 Senate” and inserting “authorizing commit-  
22 tees”; and

23 (B) in subsection (g)(4)(B), by striking  
24 “Committee on Education and the Workforce of  
25 the House of Representatives and the Com-

1           committee on Labor and Human Resources of the  
2           Senate” and inserting “authorizing commit-  
3           tees”;

4           (14) in section 486 (20 U.S.C. 1093)—

5                 (A) in subsection (e), by striking “Com-  
6           committee on Labor and Human Resources of the  
7           Senate and the Committee on Education and  
8           the Workforce of the House of Representatives”  
9           and inserting “authorizing committees”; and

10                (B) in subsection (f)(3)—

11                   (i) in the matter preceding clause (i)  
12           of subparagraph (A), by striking “Com-  
13           committee on Labor and Human Resources of  
14           the Senate and the Committee on Edu-  
15           cation and the Workforce of the House of  
16           Representatives” and inserting “author-  
17           izing committees”; and

18                   (ii) in the matter preceding clause (i)  
19           of subparagraph (B), by striking “Com-  
20           committee on Labor and Human Resources of  
21           the Senate and the Committee on Edu-  
22           cation and the Workforce of the House of  
23           Representatives” and inserting “author-  
24           izing committees”;

1           (15) in section 487A(a)(5) (20 U.S.C.  
 2           1094a(a)(5)), by striking “Committee on Labor and  
 3           Human Resources of the Senate and the Committee  
 4           on Education and the Workforce of the House of  
 5           Representatives” and inserting “authorizing commit-  
 6           tees”; and

7           (16) in section 498B(d) (20 U.S.C. 1099c-  
 8           2(d))—

9                   (A) in paragraph (1), by striking “Com-  
 10                   mittee on Labor and Human Resources of the  
 11                   Senate and the Committee on Education and  
 12                   the Workforce of the House of Representatives”  
 13                   and inserting “authorizing committees”; and

14                   (B) in paragraph (2), by striking “Com-  
 15                   mittee on Labor and Human Resources of the  
 16                   Senate and the Committee on Education and  
 17                   the Workforce of the House of Representatives”  
 18                   and inserting “authorizing committees”.

19 **SEC. 7312. GENERAL DEFINITION OF INSTITUTION OF**  
 20 **HIGHER EDUCATION.**

21 Section 101 (20 U.S.C. 1001) is amended—

22           (1) in subsection (a)(3), by inserting “, or  
 23           awards a degree that is acceptable for admission to  
 24           a graduate or professional degree program, subject

1 to the review and approval by the Secretary” after  
 2 “such a degree”; and

3 (2) by striking subsection (b)(2) and inserting  
 4 the following:

5 “(2) a public or nonprofit private educational  
 6 institution in any State that, in lieu of the require-  
 7 ment in subsection (a)(1), admits as regular stu-  
 8 dents persons—

9 “(A) who meet the requirements of section  
 10 484(d)(3);

11 “(B) who are beyond the age of compul-  
 12 sory school attendance in the State in which the  
 13 institution is located; or

14 “(C) who are dually or concurrently en-  
 15 rolled in such institution and a secondary  
 16 school.”.

17 **SEC. 7313. DEFINITION OF INSTITUTION OF HIGHER EDU-**  
 18 **CATION FOR PURPOSES OF TITLE IV PRO-**  
 19 **GRAMS.**

20 Section 102 (20 U.S.C. 1002) is amended—

21 (1) in subsection (a)—

22 (A) by striking paragraph (2)(A)(i) and in-  
 23 serting the following:

24 “(i) in the case of a graduate medical  
 25 school located outside the United States—

1           “(I) at least 60 percent of those  
2           enrolled in, and at least 60 percent of  
3           the graduates of, the graduate med-  
4           ical school outside the United States  
5           were not persons described in section  
6           484(a)(5) in the year preceding the  
7           year for which a student is seeking a  
8           loan under part B of title IV; and

9           “(II) at least 60 percent of the  
10          individuals who were students or  
11          graduates of the graduate medical  
12          school outside the United States or  
13          Canada (both nationals of the United  
14          States and others) taking the exami-  
15          nations administered by the Edu-  
16          cational Commission for Foreign Med-  
17          ical Graduates received a passing  
18          score in the year preceding the year  
19          for which a student is seeking a loan  
20          under part B of title IV; or”;

21                (B) by striking paragraph (3) and insert-  
22                ing the following:

23                “(3) LIMITATIONS BASED ON ENROLLMENT.—

24                An institution shall not be considered to meet the

1 definition of an institution of higher education in  
2 paragraph (1) if such institution—

3 “(A) has a student enrollment in which  
4 more than 25 percent of the students are incar-  
5 cerated, except that the Secretary may waive  
6 the limitation contained in this subparagraph  
7 for a nonprofit institution that provides a 2- or  
8 4-year program of instruction (or both) for  
9 which the institution awards a bachelor’s de-  
10 gree, or an associate’s degree or a postsec-  
11 ondary diploma, respectively; or

12 “(B) has a student enrollment in which  
13 more than 50 percent of the students do not  
14 have a secondary school diploma or its recog-  
15 nized equivalent, and does not provide a 2- or  
16 4-year program of instruction (or both) for  
17 which the institution awards a bachelor’s degree  
18 or an associate’s degree, respectively, except  
19 that the Secretary may waive the limitation  
20 contained in this subparagraph if a nonprofit  
21 institution demonstrates to the satisfaction of  
22 the Secretary that the institution exceeds such  
23 limitation because the institution serves,  
24 through contracts with Federal, State, or local  
25 government agencies, significant numbers of

1 students who do not have a secondary school di-  
2 ploma or its recognized equivalent.”;

3 (C) by redesignating paragraphs (4), (5),  
4 and (6), as paragraphs (5), (6), and (7), re-  
5 spectively; and

6 (D) by inserting after paragraph (3) the  
7 following:

8 “(4) LIMITATIONS BASED ON MODE OF DELIV-  
9 ERY.—

10 “(A) IN GENERAL.—An institution shall  
11 not be considered to meet the definition of an  
12 institution of higher education in paragraph (1)  
13 if such institution—

14 “(i) offers more than 50 percent of  
15 such institution’s courses by correspond-  
16 ence, unless the institution is an institution  
17 that meets the definition in section 3(3)(C)  
18 of the Carl D. Perkins Vocational and  
19 Technical Education Act of 1998; or

20 “(ii) enrolls 50 percent or more of the  
21 institution’s students in correspondence  
22 courses, unless the institution is an institu-  
23 tion that meets the definition in such sec-  
24 tion 3(3)(C), except that the Secretary, at  
25 the request of such institution, may waive

1 the applicability of this subparagraph to  
2 such institution for good cause, as deter-  
3 mined by the Secretary in the case of an  
4 institution of higher education that pro-  
5 vides a 2- or 4-year program of instruction  
6 (or both) for which the institution awards  
7 an associate or baccalaureate degree, re-  
8 spectively.

9 “(B) DISTANCE EDUCATION PROGRAM ELI-  
10 GIBILITY.—Notwithstanding subparagraph (A),  
11 an institution of higher education, other than a  
12 foreign institution, that offers education or  
13 training programs principally through distance  
14 education shall be considered to meet the defini-  
15 tion of an institution of higher education in  
16 paragraph (1) if such institution—

17 “(i) has been evaluated and deter-  
18 mined (before or after the date of enact-  
19 ment of the Higher Education Amend-  
20 ments of 2005) to have the capability to  
21 effectively deliver distance education pro-  
22 grams by an accrediting agency or associa-  
23 tion that—

24 “(I) is recognized by the Sec-  
25 retary under title IV; and

1                   “(II) has evaluation of distance  
2                   education programs within the scope  
3                   of its recognition, as described in sec-  
4                   tion 496(n)(3);

5                   “(ii) is otherwise eligible to participate  
6                   in programs authorized under title IV;

7                   “(iii) has not had its participation in  
8                   programs under title IV suspended or ter-  
9                   minated within the previous 5 years;

10                  “(iv) has not had, or failed to resolve,  
11                  an audit finding or program review finding  
12                  under this Act during the 2 years pre-  
13                  ceding the year for which the determina-  
14                  tion is made that, following any appeal to  
15                  the Secretary, resulted in the institution  
16                  being required to repay an amount that is  
17                  equal to or greater than 25 percent of the  
18                  total funds the institution received under  
19                  the programs authorized under title IV for  
20                  the most recent award year; and

21                  “(v) has met the requirements of sec-  
22                  tion 487(d), if applicable.

23                  “(C) DEFINITION.—

24                  “(i) IN GENERAL.—In this Act, except  
25                  as otherwise provided, the term ‘distance

1 education' means a course or program that  
2 uses 1 or more of the technologies de-  
3 scribed in clause (ii) to—

4 “(I) deliver instruction to stu-  
5 dents who are separated from the in-  
6 structor; and

7 “(II) support regular and sub-  
8 stantive interaction between the stu-  
9 dents and the instructor, either syn-  
10 chronously or asynchronously.

11 “(ii) INCLUSIONS.—For the purposes  
12 of clause (i), the technologies used may  
13 include—

14 “(I) the Internet;

15 “(II) one-way and two-way trans-  
16 missions through open broadcast,  
17 closed circuit, cable, microwave,  
18 broadband lines, fiber optics, satellite,  
19 or wireless communications devices;

20 “(III) audio conferencing; or

21 “(IV) video cassette, DVDs, and  
22 CD-ROMs, provided that they are  
23 used in a course in conjunction with  
24 the technologies listed in subclauses  
25 (I) through (III).”; and

1 (2) in subsection (b)(1)—

2 (A) in subparagraph (D), by inserting  
3 “and” after the semicolon;

4 (B) in subparagraph (E), by striking “;  
5 and” and inserting a period; and

6 (C) by striking subparagraph (F).

7 **SEC. 7314. PROTECTION OF STUDENT SPEECH AND ASSO-**  
8 **CIATION RIGHTS.**

9 Section 112 (20 U.S.C. 1011a) is amended—

10 (1) in subsection (a)—

11 (A) by inserting “(1)” before “It is the  
12 sense”; and

13 (B) by adding at the end the following:

14 “(2) It is the sense of Congress that—

15 “(A) the diversity of institutions and edu-  
16 cational missions is one of the key strengths of  
17 American higher education;

18 “(B) individual colleges and universities have  
19 different missions and each institution should design  
20 its academic program in accordance with its edu-  
21 cational goals;

22 “(C) within the context of institutional mission,  
23 a college should facilitate the free and open ex-  
24 change of ideas;

1           “(D) students should not be intimidated, har-  
2           assed, discouraged from speaking out, or discrimi-  
3           nated against;

4           “(E) students should be treated equally and  
5           fairly; and

6           “(F) nothing in this paragraph shall be con-  
7           strued to modify, change, or infringe upon any con-  
8           stitutionally protected religious liberty, freedom, ex-  
9           pression, or association.”; and

10           (2) in subsection (b)(1), by inserting “, pro-  
11           vided that the imposition of such sanction is done  
12           objectively and fairly” after “higher education”.

13 **SEC. 7315. NATIONAL ADVISORY COMMITTEE ON INSTITU-**  
14 **TIONAL QUALITY AND INTEGRITY.**

15           Section 114(g) (20 U.S.C. 1011c(g)) is amended by  
16           striking “September 30, 2004” and inserting “September  
17           30, 2011”.

18 **SEC. 7316. DRUG AND ALCOHOL ABUSE PREVENTION.**

19           Section 120 (20 U.S.C. 1011i) is amended by striking  
20           subsections (e) and (f) and inserting the following:

21           “(e) GRANTS DIRECTED AT REDUCING HIGHER  
22           EDUCATION DRUG AND ALCOHOL ABUSE.—

23           “(1) AUTHORIZATION OF PROGRAM.—The Sec-  
24           retary may award grants to eligible entities to enable  
25           the entities to reduce the rate of drug use, underage

1 alcohol use, and binge drinking among students at  
2 institutions of higher education.

3 “(2) APPLICATIONS.—An eligible entity that de-  
4 sires to receive a grant under this subsection shall  
5 submit an application to the Secretary at such time,  
6 in such manner, and accompanied by such informa-  
7 tion as the Secretary may require. Each application  
8 shall include—

9 “(A) a description of how the eligible enti-  
10 ty will work to enhance an existing, or where  
11 none exists to build a, statewide coalition;

12 “(B) a description of how the eligible enti-  
13 ty will target underage students in the State;

14 “(C) a description of how the eligible enti-  
15 ty intends to ensure that the statewide coalition  
16 is actually implementing the purpose described  
17 in paragraph (1) and moving toward the  
18 achievement indicators described in paragraph  
19 (4);

20 “(D) a list of the members of the statewide  
21 coalition or interested parties involved in the  
22 work of the eligible entity;

23 “(E) a description of how the eligible enti-  
24 ty intends to work with State agencies on sub-  
25 stance abuse prevention and education;

1           “(F) the anticipated impact of funds pro-  
2           vided under this subsection in reducing the  
3           rates of drug abuse and underage alcohol use;

4           “(G) outreach strategies, including ways in  
5           which the eligible entity proposes to—

6                   “(i) reach out to students;

7                   “(ii) promote the purpose described in  
8                   paragraph (1);

9                   “(iii) address the range of needs of  
10                  the students and the surrounding commu-  
11                  nities; and

12                  “(iv) address community norms for  
13                  underage students regarding drug and al-  
14                  cohol use; and

15           “(H) such additional information as re-  
16           quired by the Secretary.

17           “(3) USES OF FUNDS.—Each eligible entity  
18           that receives a grant under this subsection shall use  
19           the grant funds to carry out the activities described  
20           in such entity’s application submitted pursuant to  
21           paragraph (2).

22           “(4) ACCOUNTABILITY.—On the date on which  
23           the Secretary first publishes a notice in the Federal  
24           Register soliciting applications for grants under this  
25           subsection, the Secretary shall include in the notice

1 achievement indicators for the program authorized  
2 under this subsection. The achievement indicators  
3 shall be designed—

4 “(A) to measure the impact that the state-  
5 wide coalitions assisted under this subsection  
6 are having on the institutions of higher edu-  
7 cation and the surrounding communities, in-  
8 cluding changes in the number of alcohol and  
9 drug-related abuse incidents of any kind (in-  
10 cluding violations, physical assaults, sexual as-  
11 saults, reports of intimidation, disruptions of  
12 school functions, disruptions of student studies,  
13 mental health referrals, illnesses, or deaths);

14 “(B) to measure the quality and accessi-  
15 bility of the programs or information offered by  
16 the statewide coalitions; and

17 “(C) to provide such other measures of  
18 program impact as the Secretary determines  
19 appropriate.

20 “(5) SUPPLEMENT NOT SUPPLANT.—Grant  
21 funds provided under this subsection shall be used to  
22 supplement, and not supplant, Federal and non-Fed-  
23 eral funds available for carrying out the activities  
24 described in this subsection.

25 “(6) DEFINITIONS.—In this subsection:

1           “(A) ELIGIBLE ENTITY.—The term ‘eligi-  
2           ble entity’ means a State, an institution of  
3           higher education as defined in section 102, or  
4           a nonprofit entity.

5           “(B) INSTITUTION OF HIGHER EDU-  
6           CATION.—The term ‘institution of higher edu-  
7           cation’ has the meaning given the term in sec-  
8           tion 101(a).

9           “(C) STATE.—The term ‘State’ means  
10          each of the 50 States, the District of Columbia,  
11          and the Commonwealth of Puerto Rico.

12          “(D) STATEWIDE COALITION.—The term  
13          ‘statewide coalition’ means a coalition that—

14                 “(i) includes—

15                         “(I) institutions of higher edu-  
16                         cation within a State; and

17                         “(II) a nonprofit group, a com-  
18                         munity anti-drug or underage drink-  
19                         ing prevention coalition, or another  
20                         substance abuse prevention group  
21                         within a State; and

22                         “(ii) works toward lowering alcohol  
23                         abuse rates by targeting underage students  
24                         at institutions of higher education through-

1 out the State and in the surrounding com-  
 2 munities.

3 “(E) SURROUNDING COMMUNITY.—The  
 4 term ‘surrounding community’ means the  
 5 community—

6 “(i) that surrounds an institution of  
 7 higher education participating in a state-  
 8 wide coalition;

9 “(ii) where the students from the in-  
 10 stitution of higher education take part in  
 11 the community; and

12 “(iii) where students from the institu-  
 13 tion of higher education live in off-campus  
 14 housing.

15 “(7) ADMINISTRATIVE EXPENSES.—Not more  
 16 than 5 percent of a grant awarded under this sub-  
 17 section may be expended for administrative ex-  
 18 penses.

19 “(8) AUTHORIZATION OF APPROPRIATIONS.—  
 20 There are authorized to be appropriated to carry out  
 21 this subsection such sums as may be necessary for  
 22 fiscal year 2006 and each of the 5 succeeding fiscal  
 23 years.”.

24 **SEC. 7317. PRIOR RIGHTS AND OBLIGATIONS.**

25 Section 121(a) (20 U.S.C. 1011j(a)) is amended—

1           (1) in paragraph (1), by striking “1999” and  
2           inserting “2006”; and

3           (2) in paragraph (2), by striking “1999” and  
4           inserting “2006”.

5 **SEC. 7318. COST OF HIGHER EDUCATION.**

6           Section 131 (20 U.S.C. 1015) is amended—

7           (1) by striking subsection (b) and inserting the  
8           following:

9           “(b) COLLEGE CONSUMER INFORMATION.—

10           “(1) IN GENERAL.—The Secretary shall make  
11           available to the public the information described in  
12           paragraph (2), in a form that enables the public to  
13           compare the information among institutions of high-  
14           er education. Such information shall be made avail-  
15           able for each of the categories described in para-  
16           graph (3) and updated annually.

17           “(2) INFORMATION.—The information de-  
18           scribed in this paragraph is the following:

19           “(A) Tuition and fees for a first-time, full-  
20           time undergraduate student.

21           “(B) Cost of attendance for a first-time,  
22           full-time undergraduate student.

23           “(C) The average annual cost of attend-  
24           ance for a first-time, full-time undergraduate  
25           student for the preceding periods of 5 and 10

1 academic years preceding the year for which the  
2 information is made available under this sub-  
3 section, or if data are not available for such  
4 academic years, data for as many of such aca-  
5 demic years as are available.

6 “(D) The percentage of full-time under-  
7 graduate students receiving financial assistance,  
8 including—

9 “(i) Federal grants;

10 “(ii) State and local grants;

11 “(iii) institutional grants; and

12 “(iv) loans to students.

13 “(E) The average amount of financial aid  
14 received by students from sources described in  
15 clauses (i) through (iv) of subparagraph (D).

16 “(F) Graduation rates, as described in sec-  
17 tion 485(a)(1)(L).

18 “(G) A ranking of the dollar and percent-  
19 age increases in tuition and fees for all institu-  
20 tions of higher education for which data are  
21 available in each of the categories described in  
22 paragraph (3).

23 “(3) CATEGORIES.—The categories described in  
24 this paragraph are as follows:

25 “(A) All institutions of higher education.

1           “(B) 4-year public, degree-granting, insti-  
2           tutions of higher education.

3           “(C) 2-year public, degree-granting, insti-  
4           tutions of higher education.

5           “(D) 4-year, nonprofit, private, degree-  
6           granting institutions of higher education.

7           “(E) 2-year, nonprofit, private, degree-  
8           granting institutions of higher education.

9           “(F) 4-year, for-profit, private, degree-  
10          granting institutions of higher education.

11          “(G) 2-year, for-profit, private, degree-  
12          granting institutions of higher education.

13          “(H) Less than 2-year, for-profit, private  
14          institutions of higher education.

15          “(4) STANDARD DEFINITIONS.—In carrying out  
16          this section, the Secretary shall use the standard  
17          definitions developed under subsection (a)(3).”; and

18          (2) in subsection (c)—

19                 (A) in paragraph (1), by inserting “be con-  
20                 ducted on an annual basis and” after “Such  
21                 study shall”;

22                 (B) in paragraph (2)—

23                         (i) in subparagraph (B), by striking  
24                         “and” after the semicolon;

1 (ii) in subparagraph (C), by striking  
2 the period and inserting a semicolon; and

3 (iii) by adding at the end the fol-  
4 lowing:

5 “(D) the average cost of attending an in-  
6 stitution of higher education, disaggregated by  
7 category, as described in subsection (b)(3);

8 “(E) the average annual cost of attending  
9 an institution of higher education for the peri-  
10 ods of 5 and 10 academic years preceding the  
11 year for which the study is conducted (or if  
12 data are not available for such academic years,  
13 data for as many of such academic years as are  
14 available), disaggregated by category, as de-  
15 scribed in subsection (b)(3); and

16 “(F) the assistance provided to institutions  
17 of higher education by each State.”;

18 (C) in paragraph (3)—

19 (i) in the paragraph heading, by strik-  
20 ing “FINAL” and inserting “ANNUAL”;

21 (ii) by striking “a report” and insert-  
22 ing “an annual report”; and

23 (iii) by striking “not later than Sep-  
24 tember 30, 2002” and inserting “and the  
25 public”; and

1 (D) by striking paragraph (4) and insert-  
2 ing the following:

3 “(4) HIGHER EDUCATION COST INDEX.—The  
4 Bureau of Labor Statistics, in consultation with the  
5 Commissioner of Education Statistics, shall develop  
6 a higher education cost index that tracks inflation  
7 changes in the relevant costs associated with higher  
8 education.”.

9 **SEC. 7319. PERFORMANCE-BASED ORGANIZATION FOR THE**  
10 **DELIVERY OF FEDERAL STUDENT FINANCIAL**  
11 **ASSISTANCE.**

12 Section 141 (20 U.S.C. 1018) is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1), by striking “oper-  
15 ational” and inserting “administrative and  
16 oversight”; and

17 (B) in paragraph (2)(D), by striking “of  
18 the operational functions” and inserting “and  
19 administration”;

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) in subparagraph (A), by striking  
23 “the information systems administered by  
24 the PBO, and other functions performed  
25 by the PBO” and inserting “the Federal

1 student financial assistance programs au-  
2 thorized under title IV”; and

3 (ii) by striking subparagraph (C) and  
4 inserting the following:

5 “(C) assist the Chief Operating Officer in  
6 identifying goals for—

7 “(i) the administration of the systems  
8 used to administer the Federal student fi-  
9 nancial assistance programs authorized  
10 under title IV; and

11 “(ii) the updating of such systems to  
12 current technology.”; and

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-  
15 graph (A), by striking “administration of  
16 the information and financial systems that  
17 support” and inserting “the administration  
18 of Federal”;

19 (ii) in subparagraph (A)—

20 (I) in the matter preceding clause

21 (i), by striking “of the delivery system  
22 for Federal student assistance” and  
23 inserting “for the Federal student as-  
24 sistance programs authorized under  
25 title IV”;

1 (II) by striking clauses (i) and  
2 (ii) and inserting the following:

3 “(i) the collection, processing, and  
4 transmission of data to students, institu-  
5 tions, lenders, State agencies, and other  
6 authorized parties;

7 “(ii) the design and technical speci-  
8 fications for software development and pro-  
9 curement for systems supporting the stu-  
10 dent financial assistance programs author-  
11 ized under title IV;”;

12 (III) in clause (iii), by striking  
13 “delivery” and inserting “administra-  
14 tion”;

15 (IV) in clause (iv)—

16 (aa) by inserting “the” after  
17 “supporting”; and

18 (bb) by striking “and” after  
19 the semicolon;

20 (V) in clause (v), by striking  
21 “systems that support those pro-  
22 grams.” and inserting “the adminis-  
23 tration of the Federal student assist-  
24 ance programs authorized under title  
25 IV; and”; and

1 (VI) by adding at the end the fol-  
2 lowing:

3 “(vi) ensuring the integrity of the stu-  
4 dent assistance programs authorized under  
5 title IV.”; and

6 (iii) in subparagraph (B), by striking  
7 “operations and services” and inserting  
8 “activities and functions”; and

9 (3) in subsection (c)—

10 (A) in paragraph (1)(C)—

11 (i) in clause (iii), by striking “infor-  
12 mation and delivery”; and

13 (ii) in clause (iv)—

14 (I) by striking “Developing an”  
15 and inserting “Developing”; and

16 (II) by striking “delivery and in-  
17 formation system” and inserting “sys-  
18 tems”;

19 (B) in paragraph (2)—

20 (i) in subparagraph (A), by inserting  
21 “the” after “PBO and”; and

22 (ii) in subparagraph (B), by striking  
23 “Officer” and inserting “Officers”; and

24 (C) in paragraph (3), by inserting “stu-  
25 dents,” after “consult with”;

1 (4) in subsection (d)—

2 (A) in paragraph (1), by striking the sec-  
3 ond sentence; and

4 (B) in paragraph (5)—

5 (i) in subparagraph (B), by striking  
6 “paragraph (2)” and inserting “paragraph  
7 (4)”; and

8 (ii) in subparagraph (C), by striking  
9 “this”;

10 (5) in subsection (f)—

11 (A) in paragraph (2), by striking “to bor-  
12 rowers” and inserting “to students, bor-  
13 rowers,”; and

14 (B) in paragraph (3)(A), by striking  
15 “(1)(A)” and inserting “(1)”;

16 (6) in subsection (g)(3), by striking “not more  
17 than 25”;

18 (7) in subsection (h), by striking “organiza-  
19 tional effectiveness” and inserting “effectiveness”;

20 (8) by striking subsection (i);

21 (9) by redesignating subsection (j) as sub-  
22 section (i); and

23 (10) in subsection (i) (as redesignated by para-  
24 graph (9)), by striking “, including transition costs”.

1 **SEC. 7320. PROCUREMENT FLEXIBILITY.**

2 Section 142 (20 U.S.C. 1018a) is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (1)—

5 (i) by striking “for information sys-  
6 tems supporting the programs authorized  
7 under title IV”; and

8 (ii) by striking “and” after the semi-  
9 colon;

10 (B) in paragraph (2), by striking the pe-  
11 riod at the end and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(3) through the Chief Operating Officer—

14 “(A) to the maximum extent practicable,  
15 utilize procurement systems that streamline op-  
16 erations, improve internal controls, and enhance  
17 management; and

18 “(B) assess the efficiency of such systems  
19 and assess such systems’ ability to meet PBO  
20 requirements.”;

21 (2) by striking subsection (c)(2) and inserting  
22 the following:

23 “(2) **FEE FOR SERVICE ARRANGEMENTS.**—The  
24 Chief Operating Officer shall, when appropriate and  
25 consistent with the purposes of the PBO, acquire  
26 services related to the functions set forth in section

1 141(b)(2) from any entity that has the capability  
2 and capacity to meet the requirements set by the  
3 PBO. The Chief Operating Officer is authorized to  
4 pay fees that are equivalent to those paid by other  
5 entities to an organization that provides services  
6 that meet the requirements of the PBO, as deter-  
7 mined by the Chief Operating Officer.”;

8 (3) in subsection (d)(2)(B), by striking “on  
9 Federal Government contracts”;

10 (4) in subsection (g)—

11 (A) in paragraph (4)(A)—

12 (i) in the subparagraph heading, by  
13 striking “SOLE SOURCE.—” and inserting  
14 “SINGLE-SOURCE BASIS.—”; and

15 (ii) by striking “sole-source” and in-  
16 serting “single-source”; and

17 (B) in paragraph (7), by striking “sole-  
18 source” and inserting “single-source”;

19 (5) in subsection (h)(2)(A), by striking “sole-  
20 source” and inserting “single-source”; and

21 (6) in subsection (l), by striking paragraph (3)  
22 and inserting the following:

23 “(3) SINGLE-SOURCE BASIS.—The term ‘single-  
24 source basis’, with respect to an award of a contract,  
25 means that the contract is awarded to a source after

1 soliciting an offer or offers from, and negotiating  
 2 with, only such source (although such source is not  
 3 the only source in the marketplace capable of meet-  
 4 ing the need) because such source is the most advan-  
 5 tageous source for purposes of the award.”.

## 6 **CHAPTER 3—TEACHER QUALITY**

### 7 **ENHANCEMENT**

#### 8 **SEC. 7331. TEACHER QUALITY ENHANCEMENT GRANTS FOR** 9 **STATES AND PARTNERSHIPS.**

10 Part A of title II (20 U.S.C. 1021 et seq.) is amended  
 11 to read as follows:

#### 12 **“PART A—TEACHER QUALITY ENHANCEMENT**

#### 13 **GRANTS FOR STATES AND PARTNERSHIPS**

#### 14 **“SEC. 201. PURPOSES; DEFINITIONS.**

15 “(a) PURPOSES.—The purposes of this part are to—

16 “(1) improve student achievement;

17 “(2) improve the quality of the current and fu-  
 18 ture teaching force by improving the preparation of  
 19 prospective teachers and enhancing professional de-  
 20 velopment activities;

21 “(3) hold institutions of higher education ac-  
 22 countable for preparing highly qualified teachers;  
 23 and

1           “(4) recruit qualified individuals, including mi-  
 2           norities and individuals from other occupations, into  
 3           the teaching force.

4           “(b) DEFINITIONS.—In this part:

5           “(1) ARTS AND SCIENCES.—The term ‘arts and  
 6           sciences’ means—

7                   “(A) when referring to an organizational  
 8                   unit of an institution of higher education, any  
 9                   academic unit that offers 1 or more academic  
 10                  majors in disciplines or content areas cor-  
 11                  responding to the academic subject areas in  
 12                  which teachers provide instruction; and

13                   “(B) when referring to a specific academic  
 14                   subject area, the disciplines or content areas in  
 15                   which academic majors are offered by the arts  
 16                   and sciences organizational unit.

17           “(2) CHILDREN FROM LOW-INCOME FAMI-  
 18           LIES.—The term ‘children from low-income families’  
 19           means children as described in section 1124(c)(1)(A)  
 20           of the Elementary and Secondary Education Act of  
 21           1965.

22           “(3) EARLY CHILDHOOD EDUCATION PRO-  
 23           GRAM.—The term ‘early childhood education pro-  
 24           gram’ means a Head Start program or an Early  
 25           Head Start program carried out under the Head

1 Start Act (42 U.S.C. 9831 et seq.), a State licensed  
2 or regulated child care program or school, or a State  
3 prekindergarten program that serves children from  
4 birth through kindergarten and that addresses the  
5 children’s cognitive (including language, early lit-  
6 eracy, and pre-numeracy), social, emotional, and  
7 physical development.

8 “(4) EARLY CHILDHOOD EDUCATOR.—The  
9 term ‘early childhood educator’ means an individual  
10 with primary responsibility for the education of chil-  
11 dren in an early childhood education program.

12 “(5) EDUCATIONAL SERVICE AGENCY.—The  
13 term ‘educational service agency’ has the meaning  
14 given such term in section 9101 of the Elementary  
15 and Secondary Education Act of 1965.

16 “(6) EXEMPLARY TEACHER.—The term ‘exem-  
17 plary teacher’ has the meaning given such term in  
18 section 9101 of the Elementary and Secondary Edu-  
19 cation Act of 1965.

20 “(7) HIGH-NEED LOCAL EDUCATIONAL AGEN-  
21 CY.—The term ‘high-need local educational agency’  
22 means a local educational agency or educational  
23 service agency—

24 “(A)(i) that serves not fewer than 10,000  
25 children from low-income families;

1           “(ii) for which not less than 20 percent of  
2           the children served by the agency are children  
3           from low-income families; or

4           “(iii) with a total of less than 600 students  
5           in average daily attendance at the schools that  
6           are served by the agency and all of whose  
7           schools are designated with a school locale code  
8           of 7 or 8, as determined by the Secretary; and

9           “(B)(i) for which there is a high percent-  
10          age of teachers not teaching in the academic  
11          subject areas or grade levels in which the teach-  
12          ers were trained to teach; or

13          “(ii) for which there is a high teacher  
14          turnover rate or a high percentage of teachers  
15          with emergency, provisional, or temporary cer-  
16          tification or licensure.

17          “(8) HIGHLY QUALIFIED.—The term ‘highly  
18          qualified’ has the meaning given such term in sec-  
19          tion 9101 of the Elementary and Secondary Edu-  
20          cation Act of 1965 and, with respect to special edu-  
21          cation teachers, in section 602 of the Individuals  
22          with Disabilities Education Act.

23          “(9) PROFESSIONAL DEVELOPMENT.—The  
24          term ‘professional development’ has the meaning

1 given such term in section 9101 of the Elementary  
2 and Secondary Education Act of 1965.

3 “(10) SCIENTIFICALLY BASED READING RE-  
4 SEARCH.—The term ‘scientifically based reading re-  
5 search’ has the meaning given such term in section  
6 1208 of the Elementary and Secondary Education  
7 Act of 1965.

8 “(11) SCIENTIFICALLY BASED RESEARCH.—  
9 The term ‘scientifically based research’ has the  
10 meaning given such term in section 9101 of the Ele-  
11 mentary and Secondary Education Act of 1965.

12 “(12) TEACHER MENTORING.—The term  
13 ‘teacher mentoring’ means mentoring of teachers  
14 through an established or implemented program—

15 “(A) that includes qualifications for men-  
16 tors;

17 “(B) that provides training for mentors;

18 “(C) that provides regular and ongoing op-  
19 portunities for mentors and mentees to observe  
20 each other’s teaching methods in classroom set-  
21 tings during the school day;

22 “(D) in which the mentoring is provided by  
23 a colleague who teaches in the same field,  
24 grade, or subject as the mentee; and

25 “(E) that includes—

1                   “(i) common planning time or regu-  
2                   larly scheduled collaboration with teachers  
3                   in the teachers’ same field, grade, or sub-  
4                   ject area; and

5                   “(ii) additional professional develop-  
6                   ment opportunities.

7                   “(13) TEACHING SKILLS.—The term ‘teaching  
8                   skills’ means the ability to—

9                   “(A) increase student achievement;

10                  “(B) effectively convey and explain aca-  
11                  demic subject matter;

12                  “(C) employ strategies that—

13                         “(i) are based on scientifically based  
14                         research;

15                         “(ii) are specific to academic subject  
16                         matter; and

17                         “(iii) focus on identification and tai-  
18                         loring of academic instruction to students’  
19                         specific learning needs, particularly stu-  
20                         dents with disabilities, students who are  
21                         limited English proficient, and students  
22                         who are gifted and talented;

23                         “(D) conduct ongoing assessment of stu-  
24                         dent learning;

25                         “(E) effectively manage a classroom;

1           “(F) communicate and work with parents  
2           and guardians, and involve parents and guard-  
3           ians in their children’s education; and

4           “(G) in the case of an early childhood edu-  
5           cator, use age appropriate strategies and prac-  
6           tices for children in early childhood education  
7           programs.

8 **“SEC. 202. STATE GRANTS.**

9           “(a) IN GENERAL.—From amounts made available  
10          under section 209(a)(1) for a fiscal year, the Secretary  
11          is authorized to award grants under this section, on a  
12          competitive basis, to eligible States to enable the eligible  
13          States to carry out the activities described in subsections  
14          (d) and (e).

15          “(b) ELIGIBLE STATE.—

16                 “(1) DEFINITION.—In this part, the term ‘eligi-  
17          ble State’ means—

18                         “(A) the Governor of a State; or

19                         “(B) in the case of a State for which the  
20          constitution or law of such State designates an-  
21          other individual, entity, or agency in the State  
22          to be responsible for teacher certification or li-  
23          censure and preparation activity, such indi-  
24          vidual, entity, or agency.

1           “(2) CONSULTATION.—The Governor or the in-  
2           dividual, entity, or agency designated under para-  
3           graph (1)(B) shall consult with the Governor, State  
4           board of education, State educational agency, State  
5           agency for higher education, or other applicable  
6           State entities (including the State agency responsible  
7           for early childhood education), as appropriate, with  
8           respect to the activities assisted under this section,  
9           including the development of the grant application  
10          and implementation of the activities.

11          “(3) CONSTRUCTION.—Nothing in this sub-  
12          section shall be construed to negate or supersede the  
13          legal authority under State law of any State agency,  
14          State entity, or State public official over programs  
15          that are under the jurisdiction of the agency, entity,  
16          or official.

17          “(c) APPLICATION.—To be eligible to receive a grant  
18          under this section, an eligible State shall submit an appli-  
19          cation to the Secretary that—

20                 “(1) meets the requirement of this section;

21                 “(2) demonstrates that the eligible State is in  
22          full compliance with—

23                         “(A) sections 206(b) and 207; and

24                         “(B) if applicable, sections 207(b) and  
25                         208, as such sections were in effect on the day

1 before the date of enactment of the Higher  
2 Education Amendments of 2005;

3 “(3) includes a description of how the eligible  
4 State intends to use funds provided under this sec-  
5 tion;

6 “(4) includes measurable objectives for the use  
7 of the funds provided under this section;

8 “(5) describes how funded activities will—

9 “(A) reduce shortages, if any, of—

10 “(i) highly qualified general and spe-  
11 cial education teachers, including in low-in-  
12 come urban and rural areas and in high-  
13 need academic subject areas; and

14 “(ii) fully competent early childhood  
15 educators; and

16 “(B) be consistent with State, local, and  
17 other education reform activities that promote  
18 effective teaching skills and student academic  
19 achievement and consistent with State early  
20 learning standards for early childhood education  
21 programs, including how funded activities will  
22 support carrying out the applicable require-  
23 ments of the eligible State under sections 1111  
24 and 1119 of the Elementary and Secondary  
25 Education Act of 1965, and section 612(a)(14)

1 of the Individuals with Disabilities Education  
2 Act;

3 “(6) contains an assurance that the eligible  
4 State will carry out each of the intended uses of  
5 grant funds described in paragraph (3);

6 “(7) describes the eligible State’s—

7 “(A) current capacity to measure the effec-  
8 tiveness of teacher preparation programs and  
9 professional development activities within the  
10 State using available statewide data;

11 “(B) activities to enhance or expand the  
12 integration of existing data systems to better  
13 measure the effectiveness of teacher preparation  
14 programs and professional development activi-  
15 ties within the State; or

16 “(C) if such data systems do not exist,  
17 plans for the development of an integrated  
18 statewide data system to measure the effective-  
19 ness of teacher preparation programs and pro-  
20 fessional development activities within the State  
21 using available statewide data; and

22 “(8) contains such other information and assur-  
23 ances as the Secretary may require.

24 “(d) REQUIRED USES OF FUNDS.—An eligible State  
25 that receives a grant under this section shall use the grant

1 funds to reform teacher preparation requirements, to co-  
2 ordinate with State activities under section 2113(c) of the  
3 Elementary and Secondary Education Act of 1965 and  
4 subsections (a) and (b) of section 654 of the Individuals  
5 with Disabilities Education Act, and to ensure that cur-  
6 rent and prospective teachers are highly qualified, by car-  
7 rying out each of the following activities:

8           “(1) REFORMS.—Ensuring that all teacher  
9           preparation programs in the State are preparing  
10          current or prospective teachers to become highly  
11          qualified, to understand scientifically based research  
12          and its applicability, and to use technology effec-  
13          tively, including use of instructional techniques to  
14          improve student academic achievement, by assisting  
15          such programs—

16                   “(A) in retraining faculty;

17                   “(B) in designing (or redesigning) teacher  
18          preparation programs so that such programs—

19                           “(i) are based on rigorous academic  
20                           content and scientifically based research  
21                           (including scientifically based reading re-  
22                           search), and aligned with challenging State  
23                           academic content standards;

24                           “(ii) promote effective teaching skills;

25                           and

1                   “(iii) promote understanding of effective instructional strategies for students  
2                   with special needs, including students with  
3                   disabilities, students who are limited  
4                   English proficient, and students who are  
5                   gifted and talented;  
6

7                   “(C) in ensuring collaboration with departments, programs, or units outside of the teacher preparation program in relevant academic content areas to ensure a successful combination of training in both teaching and such content;  
8  
9  
10  
11  
12

13                   “(D) in developing high-quality, rigorous clinical experiences (that include student teaching experience) in which students participate while enrolled in a teacher preparation program, lasting not less than 1 term, through dissemination of best practices, technical assistance, or other relevant activities; and  
14  
15  
16  
17  
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19

20                   “(E) in collecting and using data, in collaboration with institutions of higher education, schools, and local educational agencies, on teacher retention rates, by school, to evaluate and strengthen the effectiveness of the State’s teacher support system.  
21  
22  
23  
24  
25

1           “(2) CERTIFICATION OR LICENSURE REQUIRE-  
2           MENTS.—Reforming teacher certification or licen-  
3           sure requirements to ensure that—

4                   “(A) teachers have the academic content  
5                   knowledge and teaching skills in the academic  
6                   subject areas that the teachers teach that are  
7                   necessary to help students meet challenging  
8                   State student academic achievement standards,  
9                   as required under section 1111(b)(1) of the El-  
10                  ementary and Secondary Education Act of  
11                  1965;

12                  “(B) such requirements are aligned with  
13                  challenging State academic content standards,  
14                  as required under section 1111(b)(1) of the El-  
15                  ementary and Secondary Education Act of  
16                  1965;

17                  “(C) teacher certification and licensure as-  
18                  sessments are—

19                          “(i) used for purposes for which such  
20                          assessments are valid and reliable;

21                          “(ii) consistent with relevant, profes-  
22                          sional, and technical standards; and

23                          “(iii) aligned with the reporting re-  
24                          quirements of sections 205 and 206; and

1           “(D) such requirements for high-need aca-  
2           ademic subject areas (such as reading, mathe-  
3           matics, science, and foreign language, including  
4           less commonly taught languages) and high-need  
5           areas (such as special education, language in-  
6           struction educational programs, and early child-  
7           hood education) exist and reflect qualifications  
8           to help students meet high standards, which  
9           may include the development of a State test for  
10          such areas.

11          “(3) EVALUATION.—

12                 “(A) ANNUAL EVALUATION.—An eligible  
13                 State that receives a grant under this section  
14                 shall evaluate annually the effectiveness of  
15                 teacher preparation programs and professional  
16                 development activities within the State. To the  
17                 extent practicable, such evaluation shall  
18                 examine—

19                         “(i) teachers’ contributions to improv-  
20                         ing student academic achievement, as  
21                         measured by State academic assessments  
22                         required under section 1111(b)(3) of the  
23                         Elementary and Secondary Education Act  
24                         of 1965; and

1                   “(ii) teacher mastery of the academic  
2                   subject matter the teachers teach.

3                   “(B) PUBLIC REPORTING.—The eligible  
4                   State shall make the information described in  
5                   subparagraph (A) widely available through pub-  
6                   lic means, such as posting on the Internet, dis-  
7                   tribution to the media, and distribution through  
8                   public agencies, except such reporting shall not  
9                   be made in a case in which the reporting of the  
10                  data would reveal personally identifiable infor-  
11                  mation about a teacher or student.

12                  “(C) BETTER MEASUREMENT OF EFFEC-  
13                  TIVENESS.—

14                  “(i) IN GENERAL.—An eligible State  
15                  that receives a grant under this section  
16                  and does not have the capacity to measure  
17                  the effectiveness of teacher preparation  
18                  programs and professional development ac-  
19                  tivities within the State using available  
20                  statewide data, shall use a portion of funds  
21                  received under this section to enhance or  
22                  expand the integration of existing data sys-  
23                  tems, as described in subsection (e)(7)(B),  
24                  or develop an integrated statewide data  
25                  system, as described in subsection

1 (c)(7)(C), to better measure and provide  
2 information that will improve the effective-  
3 ness of teacher preparation programs on  
4 student learning and achievement, and the  
5 impact of pre-service and ongoing profes-  
6 sional development on teacher placement  
7 and retention.

8 “(ii) TECHNICAL QUALITY; STUDENT  
9 PRIVACY; FUNDS FROM OTHER SOURCES.—  
10 In carrying out clause (i), the eligible State  
11 shall ensure—

12 “(I) the technical quality of the  
13 data system to maximize the validity,  
14 reliability, and accessibility of the  
15 data;

16 “(II) that student privacy is pro-  
17 tected and that individually identifi-  
18 able information about students, their  
19 achievements, and their families re-  
20 mains confidential, in accordance with  
21 the Family Educational Rights and  
22 Privacy Act of 1974; and

23 “(III) that funds provided under  
24 this section are used to supplement  
25 State efforts to enhance or expand the

1 integration of existing data systems or  
2 to develop an integrated statewide  
3 data system.

4 “(e) ALLOWABLE USES OF FUNDS.—An eligible  
5 State that receives a grant under this section may use the  
6 grant funds to reform teacher preparation requirements,  
7 to coordinate with State activities under section 2113(c)  
8 of the Elementary and Secondary Education Act of 1965  
9 and subsections (a) and (b) of section 654 of the Individ-  
10 uals with Disabilities Education Act, and to ensure that  
11 current and future teachers are highly qualified, by car-  
12 rying out any of the following activities:

13 “(1) ALTERNATIVES TO TRADITIONAL PREPA-  
14 RATION FOR TEACHING AND STATE CERTIFICATION  
15 OR LICENSURE.—Providing prospective teachers  
16 with alternative routes to State certification or licen-  
17 sure and alternative route programs to become high-  
18 ly qualified teachers through—

19 “(A) innovative approaches that reduce un-  
20 necessary barriers to State certification or licen-  
21 sure while producing highly qualified teachers;

22 “(B) a selective means for admitting indi-  
23 viduals into such programs that includes pas-  
24 sage of State approved teacher examinations in  
25 appropriate subject areas;

1           “(C) programs that help prospective teach-  
2           ers develop effective teaching skills and strate-  
3           gies through knowledge of research-based infor-  
4           mation on the learning process and learning  
5           practices;

6           “(D) programs that provide support to  
7           teachers during the teachers’ initial years in the  
8           profession; and

9           “(E) alternative routes to State certifi-  
10          cation or licensure of teachers for qualified indi-  
11          viduals, including mid-career professionals from  
12          other occupations, paraprofessionals, former  
13          military personnel, and recent college graduates  
14          with records of academic distinction.

15          “(2) INNOVATIVE PROGRAMS.—Planning and  
16          implementing innovative programs to enhance the  
17          ability of institutions of higher education, including  
18          charter colleges of education, or university and local  
19          educational agency partnership schools, to prepare  
20          highly qualified teachers, which programs shall—

21                 “(A) permit flexibility in the manner in  
22                 which the institution of higher education meets  
23                 State requirements as long as graduates, during  
24                 the graduates’ initial years in the profession, in-  
25                 crease student academic achievement;

1           “(B) provide a description in the applica-  
2           tion of long-term data gathered from teachers’  
3           performance over multiple years in the class-  
4           room regarding the teachers’ ability to increase  
5           student academic achievement;

6           “(C) ensure high-quality preparation of  
7           teachers from underrepresented groups;

8           “(D) create performance measures that  
9           can be used to document the effectiveness of in-  
10          novative methods for preparing highly qualified  
11          teachers; and

12          “(E) develop frameworks for exemplary in-  
13          duction programs informed by research and  
14          best practices.

15          “(3) TEACHER RECRUITMENT AND RETEN-  
16          TION.—Undertaking activities that develop and im-  
17          plement effective mechanisms to ensure that local  
18          educational agencies and schools are able to recruit  
19          and retain highly qualified teachers, which may in-  
20          clude the following activities:

21                  “(A) PERFORMANCE BASED COMPENSA-  
22                  TION.—Assisting local educational agencies in  
23                  developing—

24                          “(i) performance systems that reward  
25                          teachers who increase student academic

1 achievement and take on additional respon-  
2 sibilities, such as teacher mentoring and  
3 serving as master teachers; and

4 “(ii) strategies that provide differen-  
5 tial and bonus pay in high-need local edu-  
6 cational agencies to recruit and retain—

7 “(I) principals;

8 “(II) highly qualified teachers  
9 who teach in high-need academic sub-  
10 ject areas (such as reading, mathe-  
11 matics, science, and foreign language,  
12 including less commonly taught lan-  
13 guages);

14 “(III) highly qualified teachers  
15 who teach in schools identified for  
16 school improvement under section  
17 1116(b) of the Elementary and Sec-  
18 ondary Education Act of 1965;

19 “(IV) highly qualified special  
20 education teachers;

21 “(V) highly qualified teachers  
22 specializing in teaching children who  
23 are limited English proficient; and

1                   “(VI) highly qualified teachers in  
2                   low-income urban and rural schools or  
3                   districts.

4                   “(B) ADDITIONAL MECHANISMS.—Devel-  
5                   oping and implementing effective mechanisms  
6                   to ensure that local educational agencies and  
7                   schools are able to—

8                   “(i) address needs identified with re-  
9                   spect to—

10                   “(I) underrepresented groups;

11                   “(II) high-need academic subject  
12                   areas (such as reading, mathematics,  
13                   science, and foreign language, includ-  
14                   ing less commonly taught languages);

15                   “(III) high-need areas (such as  
16                   special education, language instruc-  
17                   tion educational programs for limited  
18                   English proficient students, and early  
19                   childhood education);

20                   “(IV) high-need communities,  
21                   such as rural and urban areas; and

22                   “(V) high-need schools, including  
23                   schools with high rates of teacher  
24                   turnover;

1           “(ii) offer teacher mentoring for new  
2 teachers during such teachers’ initial years  
3 of teaching; and

4           “(iii) provide access to ongoing profes-  
5 sional development and innovative training  
6 opportunities for teachers and administra-  
7 tors.

8           “(C) TEACHER ADVANCEMENT.—Assisting  
9 local educational agencies in developing teacher  
10 advancement and retention initiatives that pro-  
11 mote professional growth and emphasize mul-  
12 tiple career paths (such as paths to becoming a  
13 highly qualified mentor teacher or exemplary  
14 teacher) and pay differentiation.

15           “(D) RECRUIT QUALIFIED PROFES-  
16 SIONALS.—Developing recruitment programs or  
17 assisting local educational agencies in—

18           “(i) recruiting qualified professionals  
19 from other fields, including highly qualified  
20 paraprofessionals (as defined in section  
21 2102 of the Elementary and Secondary  
22 Education Act of 1965); and

23           “(ii) providing such professionals with  
24 alternative routes to teacher certification  
25 or licensure.

1           “(E)       UNDERREPRESENTED       POPU-  
 2           LATIONS.—Providing increased opportunities  
 3           for minorities, individuals with disabilities, and  
 4           other individuals underrepresented in the teach-  
 5           ing profession to become highly qualified teach-  
 6           ers.

7           “(F)       RURAL EDUCATION RECRUITMENT  
 8           AND RETENTION PROGRAMS.—Making grants to  
 9           rural school districts, or a consortia of rural  
 10          school districts, to implement—

11                   “(i) teacher recruitment strategies,  
 12                   which may include tuition assistance, stu-  
 13                   dent loan forgiveness, housing assistance,  
 14                   bonus pay, and other effective approaches;

15                   “(ii) teacher retention strategies, such  
 16                   as mentoring programs and ongoing oppor-  
 17                   tunities for professional growth and ad-  
 18                   vancement; and

19                   “(iii) partnerships with institutions of  
 20                   higher education designed to—

21                           “(I) prepare beginning teachers  
 22                           to teach; and

23                           “(II) assist teachers (including  
 24                           teachers who teach multiple subjects)  
 25                           to become highly qualified.

1           “(4) TEACHER SCHOLARSHIPS AND SUPPORT.—

2           Providing—

3                   “(A) scholarships to help students, such as  
4                   individuals who have been accepted by, or who  
5                   are enrolled in, a program of undergraduate  
6                   education or initial teacher preparation at an  
7                   institution of higher education, pay the costs of  
8                   tuition, room, board, and other expenses of  
9                   completing a teacher preparation program, if—

10                           “(i) the Secretary establishes such re-  
11                           quirements as the Secretary determines  
12                           necessary to ensure that recipients of  
13                           scholarships under this section who com-  
14                           plete teacher preparation programs—

15                                   “(I) subsequently teach in an  
16                                   early childhood education program or  
17                                   a high-need local educational agency  
18                                   for a period of time equivalent to the  
19                                   period of time for which the recipient  
20                                   received scholarship assistance, plus  
21                                   an additional 1 year; or

22                                   “(II) repay the amount of the  
23                                   scholarship if the recipient does not  
24                                   teach as described in subclause (I);  
25                                   and

1                   “(ii) the eligible State provides an as-  
2                   surance that the eligible State will recruit  
3                   minority students to become highly quali-  
4                   fied teachers;

5                   “(B) support services, if needed, to enable  
6                   scholarship recipients to complete postsecondary  
7                   education programs, or to move from a career  
8                   outside of the field of education into a teaching  
9                   career; and

10                  “(C) follow-up services to former scholar-  
11                  ship recipients during the recipients’ initial  
12                  years of teaching.

13                  “(5) TEACHER REMOVAL.—Developing and im-  
14                  plementing effective mechanisms to ensure that local  
15                  educational agencies and schools are able to expedi-  
16                  tiously remove incompetent or unqualified teachers  
17                  consistent with procedures to ensure due process for  
18                  the teachers.

19                  “(6) TEACHER EFFECTIVENESS.—Developing—

20                         “(A) systems to measure the effectiveness  
21                         of teacher preparation programs and profes-  
22                         sional development programs; and

23                         “(B) strategies to document gains in stu-  
24                         dent academic achievement or increases in  
25                         teacher mastery of the academic subject matter

1           the teachers teach, as a result of such pro-  
2           grams.

3           “(7) EARLY CHILDHOOD EDUCATORS.—Devel-  
4           oping strategies to improve and expand teacher  
5           preparation programs for early childhood educators  
6           to teach in early childhood education programs.

7           “(8) PROFESSIONAL DEVELOPMENT.—Devel-  
8           oping and enhancing high-quality professional devel-  
9           opment, instructional materials, and relevant edu-  
10          cational materials.

11          “(9) TECHNOLOGY.—Assisting teachers to use  
12          technology effectively, including use for instructional  
13          techniques and the collection, management, and  
14          analysis of data to improve teaching, learning, and  
15          decision making for the purpose of increasing stu-  
16          dent academic achievement.

17          “(10) AREAS OF INSTRUCTIONAL SHORTAGE.—  
18          Increasing the number of—

19                 “(A) teachers in the classroom providing  
20                 instruction in high-need academic subject areas  
21                 (such as reading, mathematics, science, and for-  
22                 eign language, including less commonly taught  
23                 languages) and high-need areas (such as special  
24                 education, language instruction educational pro-

1           grams for limited English proficient students,  
2           and early childhood education); and

3           “(B) special education faculty dedicated to  
4           preparing highly qualified special education  
5           teachers at institutions of higher education.

6           “(11) TECHNICAL ASSISTANCE.—Providing  
7           technical assistance to low-performing programs of  
8           teacher preparation within institutions of higher  
9           education identified under section 207(a).

10          “(12) EVALUATION SUPPORT.—Performing  
11          data collection, evaluation, and reporting to meet the  
12          requirements of subsection (d)(3).

13          “(13) PROFESSIONAL ADVANCEMENT.—Devel-  
14          oping a professional advancement system to—

15                 “(A) initiate or enhance a system in which  
16                 highly qualified teachers who pursue advanced  
17                 licensure levels are required to demonstrate in-  
18                 creased competencies and undertake increased  
19                 responsibilities for increased compensation as  
20                 the teachers progress through levels established  
21                 by the State; or

22                 “(B) provide opportunities for professional  
23                 growth, including through—

24                         “(i) a nationally recognized advance  
25                         credentialing system; or

1                   “(ii) special certification in advanced  
2                   placement or international baccalaureate  
3                   content, teaching gifted and talented stu-  
4                   dents, and pedagogy.

5           “(f) SUPPLEMENT, NOT SUPPLANT.—Funds made  
6 available under this section shall be used to supplement,  
7 and not supplant, other Federal, State, and local funds  
8 that would otherwise be expended to carry out activities  
9 under this section.

10 **“SEC. 203. PARTNERSHIP GRANTS.**

11           “(a) GRANTS.—From amounts made available under  
12 section 209(a)(2) for a fiscal year, the Secretary is author-  
13 ized to award grants under this section, on a competitive  
14 basis, to eligible partnerships to enable the eligible part-  
15 nerships to carry out the activities described in subsections  
16 (e) and (f).

17           “(b) DEFINITIONS.—

18                   “(1) ELIGIBLE PARTNERSHIP.—

19                           “(A) IN GENERAL.—In this part, the term  
20                   ‘eligible partnership’ means an entity that shall  
21                   include—

22                                   “(i) a partner institution;

23                                   “(ii) a school of arts and sciences;

1           “(iii) a high-need local educational  
2           agency and a school or a consortium of  
3           schools served by the agency; and

4           “(iv) at least 1 individual or entity de-  
5           scribed in subparagraph (B).

6           “(B) ADDITIONAL INDIVIDUALS AND ENTI-  
7           TIES.—In this part, the term ‘eligible partner-  
8           ship’ means an entity that shall include at least  
9           1 of the following:

10           “(i) A Governor.

11           “(ii) A State educational agency.

12           “(iii) A State board of education.

13           “(iv) A State agency for higher edu-  
14           cation.

15           “(v) A school or department within  
16           the partner institution focusing on edu-  
17           cation, psychology, human development, or  
18           a department with comparable expertise in  
19           the disciplines of teaching, learning, and  
20           child and adolescent development.

21           “(vi) An institution of higher edu-  
22           cation or a department within such institu-  
23           tion, not described in subparagraph (A).

24           “(vii) A public charter school.

1                   “(viii) A public or private elementary  
2 school or secondary school.

3                   “(ix) A public or private nonprofit  
4 educational organization.

5                   “(x) A business.

6                   “(xi) A science-, mathematics-, or  
7 technology-oriented entity.

8                   “(xii) An early childhood education  
9 program.

10                  “(xiii) A teacher organization.

11                  “(xiv) An educational service agency.

12                  “(xv) A consortium of local edu-  
13 cational agencies.

14                  “(xvi) A nonprofit telecommunications  
15 entity.

16                  “(2) PARTNER INSTITUTION.—In this section,  
17 the term ‘partner institution’ means an institution of  
18 higher education, which may include a 2-year insti-  
19 tution of higher education offering a dual program  
20 with a 4-year institution of higher education, that  
21 has a teacher preparation program—

22                   “(A) whose graduates exhibit strong per-  
23 formance on State-determined qualifying assess-  
24 ments for new teachers through—

1           “(i) demonstrating that 80 percent or  
2           more of the graduates of the program who  
3           intend to enter the field of teaching have  
4           passed all of the applicable State qualifica-  
5           tion assessments for new teachers, which  
6           shall include an assessment of each pro-  
7           spective teacher’s subject matter knowledge  
8           in the content area in which the teacher in-  
9           tends to teach; or

10           “(ii) being ranked among the highest-  
11           performing teacher preparation programs  
12           in the State as determined by the State—

13                   “(I) using criteria consistent with  
14                   the requirements for the State report  
15                   card under section 206(b); and

16                   “(II) using the State report card  
17                   on teacher preparation required under  
18                   section 206(b), after the first publica-  
19                   tion of such report card and for every  
20                   year thereafter; or

21           “(B) that requires all the students of the  
22           program to meet high academic standards and  
23           participate in intensive clinical experience,  
24           and—

1                   “(i) in the case of secondary school  
2 candidates, to successfully complete—

3                   “(I) a major or its equivalent in  
4 coursework in the academic subject  
5 area in which the candidate intends to  
6 teach; or

7                   “(II) a related major in the aca-  
8 demic subject area in which the can-  
9 didate intends to teach;

10                   “(ii) in the case of elementary school  
11 candidates, to successfully complete—

12                   “(I) an academic major or its  
13 equivalent in coursework in the arts  
14 and sciences; or

15                   “(II) a major in elementary edu-  
16 cation with a significant amount of  
17 coursework in the arts and sciences;  
18 and

19                   “(iii) in the case of early childhood  
20 educators, to become fully competent and  
21 meet degree requirements, as established  
22 by the State.

23                   “(c) APPLICATION.—Each eligible partnership desir-  
24 ing a grant under this section shall submit an application  
25 to the Secretary at such time, in such manner, and accom-

1 panied by such information as the Secretary may require.

2 Each such application shall contain—

3           “(1) a needs assessment of all the partners with  
4           respect to the preparation, induction, and profes-  
5           sional development of early childhood educators,  
6           general and special education teachers, and prin-  
7           cipals;

8           “(2) a description of the extent to which the  
9           teacher preparation program of the eligible partner-  
10          ship prepares new teachers with effective teaching  
11          skills;

12          “(3) a description of how the eligible partner-  
13          ship will coordinate with other teacher preparation  
14          or professional development programs, including  
15          those funded under the Elementary and Secondary  
16          Education Act of 1965 and the Individuals with Dis-  
17          abilities Education Act, and how the activities of the  
18          eligible partnership will be consistent with State,  
19          local, and other education reform activities that pro-  
20          mote student achievement;

21          “(4) a resource assessment that describes the  
22          resources available to the eligible partnership, the in-  
23          tended use of the grant funds (including a descrip-  
24          tion of how the grant funds will be fairly distrib-  
25          uted), and the commitment of the resources of the

1 eligible partnership to the activities assisted under  
2 this part, including financial support, faculty partici-  
3 pation, time commitments, and continuation of the  
4 activities when the grant period ends;

5 “(5) a description of—

6 “(A) how the eligible partnership will meet  
7 the purposes of this part;

8 “(B) how the eligible partnership will carry  
9 out the activities required under subsection (e)  
10 and any permissible activities under subsection  
11 (f);

12 “(C) the eligible partnership’s evaluation  
13 plan pursuant to section 205(b);

14 “(D) how the eligible partnership will align  
15 the teacher preparation program with the chal-  
16 lenging student academic achievement stand-  
17 ards, State early learning standards for early  
18 childhood education programs (where applica-  
19 ble), and challenging academic content stand-  
20 ards, established by the State in which the  
21 partnership is located;

22 “(E) how faculty of the teacher prepara-  
23 tion program at the partner institution will  
24 serve, over the period of the grant, with highly  
25 qualified teachers in the classrooms of the high-

1           need local educational agency included in the el-  
2           igible partnership;

3           “(F) how the eligible partnership will en-  
4           sure that teachers, principals, and superintend-  
5           ents in all schools (including private schools, as  
6           appropriate) located in the geographic areas  
7           served by an eligible partnership under this sec-  
8           tion are provided information about the activi-  
9           ties carried out with funds under this section,  
10          including through electronic means;

11          “(G) how the eligible partnership will de-  
12          sign, implement, or enhance the clinical pro-  
13          gram component, including promoting close su-  
14          pervision of student teachers by faculty of the  
15          teacher preparation program and mentor teach-  
16          ers while in the program and during the stu-  
17          dent teachers’ initial years of teaching if hired  
18          by schools included in the eligible partnership;

19          “(H) how the eligible partnership will de-  
20          velop or enhance an induction program that in-  
21          cludes high-quality professional development to  
22          support new teachers during the teachers’ ini-  
23          tial years of teaching that includes teacher  
24          mentoring and collaborating with teachers in  
25          the same grade, department, or field; and

1           “(I) how the eligible partnership will col-  
2           lect, analyze, use, and disseminate data on the  
3           retention of all teachers in schools located in  
4           the geographic areas served by the eligible part-  
5           nership to evaluate the effectiveness of its  
6           teacher support system; and

7           “(6) an assurance that the eligible partnership  
8           will carry out each of the activities described in  
9           paragraph (5).

10          “(d) CONSULTATION.—

11           “(1) IN GENERAL.—Members of an eligible  
12           partnership that receives a grant under this section  
13           shall engage in regular consultation throughout the  
14           development and implementation of programs and  
15           activities under this section.

16           “(2) REGULAR COMMUNICATION.—To ensure  
17           timely and meaningful consultation, regular commu-  
18           nication shall occur among all members of the eligi-  
19           ble partnership, including the high-need local edu-  
20           cational agency. Such communication shall continue  
21           throughout the implementation of the grant and the  
22           assessment of programs and activities under this  
23           section.

24           “(3) WRITTEN CONSENT.—The Secretary may  
25           approve changes in grant activities only if a written

1 consent signed by all members of the eligible part-  
2 nership is submitted to the Secretary.

3 “(e) REQUIRED USES OF FUNDS.—An eligible part-  
4 nership that receives a grant under this section shall use  
5 the grant funds to carry out each of the following activi-  
6 ties:

7 “(1) REFORMS.—Ensuring that each teacher  
8 preparation program and each early childhood edu-  
9 cator preparation program, where applicable, of the  
10 eligible partnership that is assisted under this sec-  
11 tion addresses the needs identified in the needs as-  
12 sessment of the partnership and is preparing current  
13 or prospective teachers to be highly qualified, and,  
14 where applicable, early childhood educators to be  
15 fully competent, to understand scientifically based  
16 research and its applicability, and to use technology  
17 effectively, including use of instructional techniques  
18 to improve student academic achievement, and in the  
19 case of early childhood educators, techniques to im-  
20 prove children’s cognitive, social, emotional, and  
21 physical development, by assisting such programs—

22 “(A) in retraining faculty;

23 “(B) in designing (or redesigning) teacher  
24 preparation programs so that such programs—

1           “(i) are based on rigorous academic  
2           content and scientifically based research  
3           (including scientifically based reading re-  
4           search), and aligned with challenging State  
5           academic content standards, as required  
6           under section 1111(b)(1) of the Elemen-  
7           tary and Secondary Education Act of  
8           1965, and for early childhood educators,  
9           aligned with State early learning stand-  
10          ards;

11           “(ii) promote effective teaching skills;

12           “(iii) promote understanding of effec-  
13          tive instructional strategies for students  
14          with special needs, including students with  
15          disabilities, students who are limited  
16          English proficient, students who are gifted  
17          and talented, and children in early child-  
18          hood education programs; and

19           “(iv) promote high-quality mathe-  
20          matics, science, and foreign language in-  
21          struction, where applicable;

22           “(C) in ensuring collaboration with depart-  
23          ments, programs, or units outside of the teach-  
24          er preparation program in all academic content

1 areas to ensure a successful combination of  
2 training in both teaching and such content; and

3 “(D) in developing high-quality, rigorous  
4 clinical experiences, lasting not less than 1  
5 term, through dissemination of best practices,  
6 technical assistance, or other relevant activities.

7 “(2) CLINICAL EXPERIENCE AND INTER-  
8 ACTION.—Improving sustained and high-quality  
9 preservice clinical experiences, including—

10 “(A) providing teacher mentoring; and

11 “(B) substantially increasing interaction  
12 between faculty at institutions of higher edu-  
13 cation and new and experienced teachers, prin-  
14 cipals, and other administrators at elementary  
15 schools or secondary schools, and providing sup-  
16 port, including preparation time and release  
17 time, for such interaction.

18 “(3) SUPPORT PROGRAMS FOR NEW TEACH-  
19 ERS.—Creating a program to support new teachers  
20 during the initial years of teaching (for not less than  
21 1 year and not more than 3 years). Such program  
22 shall promote effective teaching skills and may in-  
23 clude the following components:

1           “(A) Development of skills in educational  
2 interventions based on scientifically based re-  
3 search.

4           “(B) Development of knowledge of scientif-  
5 ically based research on teaching and learning.

6           “(C) Inclusion of faculty who model the in-  
7 tegration of research and practice in the class-  
8 room.

9           “(D) Opportunities for—

10           “(i) high-quality teacher mentoring;  
11 and

12           “(ii) additional professional develop-  
13 ment, dissemination of evidence-based re-  
14 search on educational practices, and pro-  
15 fessional development activities.

16           “(E) Interdisciplinary collaboration among  
17 exemplary teachers, faculty, researchers, and  
18 other staff who prepare new teachers in the  
19 learning process and the assessment of learn-  
20 ing.

21           “(f) ALLOWABLE USES OF FUNDS.—An eligible part-  
22 nership that receives a grant under this section may use  
23 the grant funds to carry out any of the following activities  
24 that address the needs identified in the needs assessment:

1           “(1) ALTERNATIVES TO TRADITIONAL PREPA-  
2           RATION FOR TEACHING AND STATE CERTIFICATION  
3           OR LICENSURE.—The activity described in section  
4           202(e)(1).

5           “(2) DISSEMINATION AND COORDINATION.—  
6           Broadly disseminating information on effective prac-  
7           tices used by the eligible partnership, and coordi-  
8           nating with the recruitment and training activities of  
9           the Governor, State board of education, State agen-  
10          cy for higher education, State agency responsible for  
11          early childhood education, and State educational  
12          agency, as appropriate.

13          “(3) INNOVATIVE PROGRAMS.—Developing in-  
14          novative programs designed to provide graduates of  
15          programs funded under this title with opportunities  
16          to continue their education through supports and op-  
17          portunities to improve instructional practices in the  
18          initial years of teaching, including the following:

19                 “(A) INTERNSHIPS.—

20                         “(i) TEACHER PREPARATION EN-  
21                         HANCEMENT INTERNSHIP.—Developing a  
22                         1-year paid internship program for stu-  
23                         dents who have completed an initial teach-  
24                         er preparation program, or alternative  
25                         routes to State certification or licensure

1 program, to enable such students to de-  
2 velop the skills and experience necessary  
3 for success in teaching, including providing  
4 intensive clinical training and combining  
5 in-service instruction in teacher methods  
6 and assessments with classroom observa-  
7 tions, experiences, and practices. Such in-  
8 terns shall have a reduced teaching load  
9 and a mentor for assistance in the class-  
10 room.

11 “(ii) MID-CAREER PROFESSIONAL IN-  
12 TERNSHIPS.—Developing a 1-year paid in-  
13 ternship program for mid-career profes-  
14 sionals from other occupations, former  
15 military personnel, and recent college grad-  
16 uates from fields other than teacher prepa-  
17 ration with records of academic distinction  
18 to enable such individuals to develop the  
19 skills and experience necessary for success  
20 in teaching, including providing intensive  
21 clinical training and combining in-service  
22 instruction in teacher methods and assess-  
23 ments with classroom observations, experi-  
24 ences, and practices. Such interns shall

1           have a reduced teaching load and a mentor  
2           for assistance in the classroom.

3           “(B) RESIDENCY PROGRAMS FOR NEW  
4           TEACHERS.—Supporting teachers in a residency  
5           program that provides an induction period for  
6           all new general education and special education  
7           teachers that includes—

8                   “(i) a forum for information sharing  
9                   among prospective teachers, teachers, prin-  
10                  cipals, administrators, and participating  
11                  faculty in the partner institution; and

12                   “(ii) the application of scientifically  
13                   based research on teaching and learning  
14                   generated by entities such as the Institute  
15                   of Education Sciences, and the National  
16                   Research Council of the National Acad-  
17                   emies.

18           “(C) PATHWAYS FOR PARAPROFESSIONALS  
19           TO ENTER TEACHING.—Creating intensive pro-  
20           grams to provide the coursework and clinical  
21           experiences needed by highly qualified para-  
22           professionals, as defined in section 2102 of the  
23           Elementary and Secondary Education Act of  
24           1965, to qualify for State teacher certification  
25           or licensure to become highly qualified teachers.

1           “(4) MANAGERIAL AND LEADERSHIP SKILLS.—  
2           Developing and implementing proven mechanisms to  
3           provide principals and superintendents with effective  
4           managerial, leadership, curricula, and instructional  
5           skills that result in increased student academic  
6           achievement.

7           “(5) TEACHER SCHOLARSHIPS AND SUPPORT.—  
8           Providing—

9                   “(A) scholarships to help students, such as  
10                  individuals who have been accepted by, or who  
11                  are enrolled in, a program of undergraduate  
12                  education at an institution of higher education,  
13                  pay the costs of tuition, room, board, and other  
14                  expenses of completing a teacher preparation  
15                  program, if—

16                           “(i) the Secretary establishes such re-  
17                           quirements as the Secretary determines  
18                           necessary to ensure that recipients of  
19                           scholarships under this paragraph who  
20                           complete teacher preparation programs—

21                                   “(I) subsequently teach in a  
22                                   high-need local educational agency for  
23                                   a period of time equivalent to the pe-  
24                                   riod of time for which the recipient re-

1                   ceived the scholarship assistance, plus  
2                   an additional 1 year; or

3                   “(II) repay the amount of the  
4                   scholarship if the recipient does not  
5                   teach as described in subclause (I);  
6                   and

7                   “(ii) the eligible partnership provides  
8                   an assurance that the eligible partnership  
9                   will recruit minority students to become  
10                  highly qualified teachers;

11                  “(B) support services, if needed, to enable  
12                  scholarship recipients to complete postsecondary  
13                  education programs, or to transition from a ca-  
14                  reer outside of the field of education into a  
15                  teaching career; and

16                  “(C) follow-up services for former scholar-  
17                  ship recipients during the recipients’ initial  
18                  years of teaching.

19                  “(6) COORDINATION WITH COMMUNITY COL-  
20                  LEGES.—

21                  “(A) TEACHER PREPARATION PRO-  
22                  GRAMS.—Coordinating with 2-year institutions  
23                  of higher education to implement teacher prepa-  
24                  ration programs, including through distance

1 learning, for the purposes of allowing prospec-  
2 tive teachers—

3 “(i) to obtain a bachelor’s degree and  
4 State certification or licensure; and

5 “(ii) to become highly qualified teach-  
6 ers.

7 “(B) PROFESSIONAL DEVELOPMENT.—Co-  
8 ordinating with 2-year institutions of higher  
9 education to provide professional development  
10 that—

11 “(i) improves the academic content  
12 knowledge of teachers in the academic sub-  
13 ject areas in which the teachers are cer-  
14 tified or licensed to teach, or in which the  
15 teachers are working toward certification  
16 or licensure to teach; and

17 “(ii) promotes effective teaching skills.

18 “(7) CLINICAL EXPERIENCE IN SCIENCE, MATH-  
19 EMATICS, AND TECHNOLOGY.—Creating opportuni-  
20 ties for clinical experience and training for teachers  
21 and prospective teachers through participation with  
22 professionals in business, research, and work envi-  
23 ronments in areas relating to science, mathematics,  
24 and technology, including opportunities for using  
25 laboratory equipment.

1           “(8) PROFESSIONAL DEVELOPMENT—Creating  
 2 opportunities for enhanced and ongoing professional  
 3 development for experienced general education and  
 4 special education teachers, early childhood edu-  
 5 cators, principals, administrators, and faculty.

6           “(9) TECHNOLOGY.—The activity described in  
 7 section 202(e)(9).

8           “(10) AREAS OF INSTRUCTIONAL SHORTAGE.—  
 9 Increasing the number of—

10           “(A) teachers in the classroom providing  
 11 instruction in high-need academic subject areas  
 12 (such as reading, mathematics, science, and for-  
 13 eign language, including less commonly taught  
 14 languages), and high-need areas (such as spe-  
 15 cial education, language instruction educational  
 16 programs for limited English proficient stu-  
 17 dents, and early childhood education);

18           “(B) special education faculty dedicated to  
 19 preparing highly qualified special education  
 20 teachers at institutions of higher education; and

21           “(C) faculty at institutions of higher edu-  
 22 cation with expertise in instruction of students  
 23 who are limited English proficient.

24           “(11) IMPROVING INSTRUCTION.—Improving  
 25 instruction by—

1           “(A) improving understanding and instruc-  
2           tion in core academic subjects and other, spe-  
3           cialized courses, such as geography, American  
4           history and government, and world history; and

5           “(B) creating externships for teachers and  
6           prospective teachers for field experience and  
7           training through participation in business, re-  
8           search, and work environments in high-need  
9           academic subject areas (such as reading, math-  
10          ematics, science, and foreign language, includ-  
11          ing less commonly taught languages) and high-  
12          need areas (such as special education, language  
13          instruction educational programs for limited  
14          English proficient students, and early childhood  
15          education).

16          “(12) GRADUATE PROGRAMS.—Developing, in  
17          collaboration with departments, programs, or units  
18          of both academic content and teacher education  
19          within a partner institution, master’s degree pro-  
20          grams that meet the demonstrated needs of teachers  
21          in the high-need local educational agency partici-  
22          pating in the eligible partnership for content exper-  
23          tise and teaching skills.

24          “(13) LITERACY TEACHER TRAINING.—Estab-  
25          lishing and implementing a program that strength-

1       ens content knowledge and teaching skills of sec-  
2       ondary school teachers in literacy that—

3               “(A) provides teacher training and sti-  
4               pends for literacy coaches who train classroom  
5               teachers to implement literacy programs;

6               “(B) develops or redesigns rigorous re-  
7               search-based curricula that are aligned with  
8               challenging State academic content standards,  
9               as required under section 1111(b)(1) of the El-  
10              ementary and Secondary Education Act of  
11              1965, and with postsecondary standards for  
12              reading and writing;

13              “(C) provides training and stipends for  
14              teachers to tutor students with intense individ-  
15              ualized reading, writing, and subject matter in-  
16              struction during or beyond the school day;

17              “(D) provides opportunities for teachers to  
18              plan and assess instruction with other teachers,  
19              school leaders, and faculty at institutions of  
20              higher education; and

21              “(E) establishes an evaluation and ac-  
22              countability plan for activities conducted under  
23              this paragraph to measure the impact of such  
24              activities.

1       “(g) CONSTRUCTION.—Nothing in this section shall  
 2 be construed to prohibit an eligible partnership from using  
 3 grant funds to coordinate with the activities of eligible  
 4 partnerships in other States or on a regional basis through  
 5 Governors, State boards of education, State educational  
 6 agencies, State agencies responsible for early childhood  
 7 education, local educational agencies, or State agencies for  
 8 higher education.

9       “(h) SUPPLEMENT, NOT SUPPLANT.—Funds made  
 10 available under this section shall be used to supplement,  
 11 and not supplant, other Federal, State, and local funds  
 12 that would otherwise be expended to carry out activities  
 13 under this section.

14 **“SEC. 204. ADMINISTRATIVE PROVISIONS.**

15       “(a) DURATION; NUMBER OF AWARDS; PAY-  
 16 MENTS.—

17               “(1) DURATION.—

18                       “(A) ELIGIBLE STATES.—Grants awarded  
 19 to eligible States under this part shall be  
 20 awarded for a period not to exceed 3 years.

21                       “(B) ELIGIBLE PARTNERSHIPS.—Grants  
 22 awarded to eligible partnerships under this part  
 23 shall be awarded for a period of 5 years.

24               “(2) NUMBER OF AWARDS.—An eligible part-  
 25 nership may not receive more than 1 grant during

1 a 5-year period. Nothing in this title shall be con-  
2 strued to prohibit an individual member, that can  
3 demonstrate need, of an eligible partnership that re-  
4 ceives a grant under this title from entering into an-  
5 other eligible partnership consisting of new members  
6 and receiving a grant with such other eligible part-  
7 nership before the 5-year period described in the  
8 preceding sentence applicable to the eligible partner-  
9 ship with which the individual member has first  
10 partnered has expired.

11 “(3) PAYMENTS.—The Secretary shall make  
12 annual payments of grant funds awarded under this  
13 part.

14 “(b) PEER REVIEW.—

15 “(1) PANEL.—The Secretary shall provide the  
16 applications submitted under this part to a peer re-  
17 view panel for evaluation. With respect to each ap-  
18 plication, the peer review panel shall initially rec-  
19 ommend the application for funding or for dis-  
20 approval.

21 “(2) PRIORITY.—In recommending applications  
22 to the Secretary for funding under this part, the  
23 panel shall—

24 “(A) with respect to grants under section  
25 202, give priority to eligible States—

1           “(i) that have innovative reforms to  
2 hold institutions of higher education with  
3 teacher preparation programs accountable  
4 for preparing teachers to become highly  
5 qualified and have effective teaching skills;

6           “(ii) that have innovative efforts  
7 aimed at reducing the shortage of highly  
8 qualified general and special education  
9 teachers, including in low-income urban  
10 and rural areas and in high-need academic  
11 subject areas (such as reading, mathe-  
12 matics, science, and foreign language, in-  
13 cluding less commonly taught languages);  
14 and

15           “(iii) whose awards promote an equi-  
16 table geographic distribution of grants  
17 among rural and urban areas; and

18           “(B) with respect to grants under section  
19 203, give priority—

20           “(i) to applications from broad-based  
21 eligible partnerships that involve busi-  
22 nesses and community organizations; and

23           “(ii) to eligible partnerships so that  
24 the awards promote an equitable geo-

1                   graphic distribution of grants among rural  
2                   and urban areas.

3                   “(3) SECRETARIAL SELECTION.—The Secretary  
4                   shall determine, based on the peer review process,  
5                   which applications shall receive funding and the  
6                   amounts of the grants. In determining grant  
7                   amounts, the Secretary shall take into account the  
8                   total amount of funds available for all grants under  
9                   this part and the types of activities proposed to be  
10                  carried out.

11                  “(c) MATCHING REQUIREMENTS.—

12                  “(1) STATE GRANTS.—Each eligible State re-  
13                  ceiving a grant under section 202 shall provide, from  
14                  non-Federal sources, an amount equal to 50 percent  
15                  of the amount of the grant (in cash or in kind) to  
16                  carry out the activities supported by the grant.

17                  “(2) PARTNERSHIP GRANTS.—Each eligible  
18                  partnership receiving a grant under section 203  
19                  shall provide, from non-Federal sources (in cash or  
20                  in kind), an amount equal to 25 percent of the  
21                  amount of the grant for the first year of the grant,  
22                  35 percent of the amount of the grant for the second  
23                  year of the grant, and 50 percent of the amount of  
24                  the grant for each succeeding year of the grant.

1       “(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—  
2 An eligible State or eligible partnership that receives a  
3 grant under this part may use not more than 2 percent  
4 of the grant funds for purposes of administering the grant.

5       “(e) ADDITIONAL ACTIVITIES.—The Secretary shall  
6 use funds repaid pursuant to section 202(e)(4)(A)(i)(II)  
7 or section 203(f)(5)(A)(i)(II) to carry out additional ac-  
8 tivities under section 202 or 203, respectively.

9       **“SEC. 205. ACCOUNTABILITY AND EVALUATION.**

10       “(a) STATE GRANT ACCOUNTABILITY REPORT.—An  
11 eligible State that receives a grant under section 202 shall  
12 submit an annual accountability report to the Secretary  
13 and the authorizing committees. Such report shall include  
14 a description of the degree to which the eligible State, in  
15 using funds provided under such section, has made  
16 progress in meeting the purposes of this part and substan-  
17 tial progress in meeting the following goals, as applicable:

18               “(1) STUDENT ACADEMIC ACHIEVEMENT.—In-  
19 creasing student academic achievement for all stu-  
20 dents as defined by the eligible State.

21               “(2) RAISING STANDARDS.—Raising the State  
22 academic standards required to enter the teaching  
23 profession as a highly qualified teacher, and where  
24 applicable, as a fully competent early childhood edu-  
25 cator.

1           “(3) INITIAL CERTIFICATION OR LICENSURE.—  
2           Improving the pass rates and scaled scores for initial  
3           State teacher certification or licensure, or increasing  
4           the numbers of qualified individuals being certified  
5           or licensed as teachers through alternative routes to  
6           State certification or licensure programs.

7           “(4) PERCENTAGE OF HIGHLY QUALIFIED  
8           TEACHERS.—Providing data on the progress of the  
9           State towards meeting the highly qualified teacher  
10          requirements under section 1119(a)(2) of the Ele-  
11          mentary and Secondary Education Act of 1965.

12          “(5) DECREASING TEACHER SHORTAGES.—De-  
13          creasing shortages of—

14               “(A) highly qualified teachers in—

15                   “(i) low-income urban and rural  
16                   areas;

17                   “(ii) high-need academic subject areas  
18                   (such as reading, mathematics, science,  
19                   and foreign language, including less com-  
20                   monly taught languages);

21                   “(iii) special education; and

22                   “(iv) high-need areas (such as special  
23                   education, language instruction educational  
24                   programs for limited English proficient

1 students, and early childhood education);

2 and

3 “(B) fully competent early childhood edu-

4 cators.

5 “(6) INCREASING OPPORTUNITIES FOR PROFES-

6 SIONAL DEVELOPMENT.—Increasing opportunities

7 for enhanced and ongoing professional development

8 that—

9 “(A) improves the academic content knowl-

10 edge of teachers in the academic subject areas

11 in which the teachers are certified or licensed to

12 teach or in which the teachers are working to-

13 ward certification or licensure to teach; and

14 “(B) promotes effective teaching skills.

15 “(b) ELIGIBLE PARTNERSHIP EVALUATION.—Each

16 eligible partnership submitting an application for a grant

17 under section 203 shall establish and include in such ap-

18 plication, an evaluation plan that includes strong perform-

19 ance objectives. The plan shall include objectives and

20 measures for increasing—

21 “(1) student achievement for all students as

22 measured by the eligible partnership;

23 “(2) teacher retention in the first 3 years of a

24 teacher’s career;

1           “(3) improvement in the pass rates and scaled  
2 scores for initial State certification or licensure of  
3 teachers;

4           “(4) the percentage of highly qualified teachers  
5 hired by the high-need local educational agency par-  
6 ticipating in the eligible partnership; and

7           “(5) the percentage of—

8           “(A) highly qualified teachers among  
9 underrepresented groups, in high-need academic  
10 subject areas (such as reading, mathematics,  
11 science, and foreign language, including less  
12 commonly taught languages), in high-need  
13 areas (such as special education, language in-  
14 struction educational programs for limited  
15 English proficient students, and early childhood  
16 education), and in high-need schools;

17           “(B) elementary school, middle school, and  
18 secondary school classes taught by teachers who  
19 are highly qualified;

20           “(C) early childhood education program  
21 classes taught by providers who are fully com-  
22 petent; and

23           “(D) highly qualified special education  
24 teachers.

25           “(c) REVOCATION OF GRANT.—

1           “(1) ELIGIBLE STATES.—If the Secretary de-  
2           termines that an eligible State is not making sub-  
3           stantial progress in meeting the purposes, goals, ob-  
4           jectives, and measures, as appropriate, by the end of  
5           the second year of a grant under this part, then the  
6           grant payment shall not be made for the third year  
7           of the grant.

8           “(2) ELIGIBLE PARTNERSHIPS.—If the Sec-  
9           retary determines that an eligible partnership is not  
10          making substantial progress in meeting the pur-  
11          poses, goals, objectives, and measures, as appro-  
12          priate, by the end of the third year of a grant under  
13          this part, then the grant payments shall not be made  
14          for any succeeding year of the grant.

15          “(d) EVALUATION AND DISSEMINATION.—The Sec-  
16          retary shall evaluate the activities funded under this part  
17          and report the Secretary’s findings regarding the activities  
18          to the authorizing committees. The Secretary shall broadly  
19          disseminate—

20                 “(1) successful practices developed by eligible  
21                 States and eligible partnerships under this part; and

22                 “(2) information regarding such practices that  
23                 were found to be ineffective.

1 **“SEC. 206. ACCOUNTABILITY FOR PROGRAMS THAT PRE-**  
2 **PARE TEACHERS.**

3 “(a) INSTITUTIONAL AND PROGRAM REPORT CARDS  
4 ON THE QUALITY OF TEACHER PREPARATION.—

5 “(1) REPORT CARD.—Each institution of higher  
6 education that conducts a traditional teacher prepa-  
7 ration program or alternative routes to State certifi-  
8 cation or licensure program and that enrolls stu-  
9 dents receiving Federal assistance under this Act  
10 shall report annually to the State and the general  
11 public, in a uniform and comprehensible manner  
12 that conforms with the definitions and methods es-  
13 tablished by the Secretary, both for traditional  
14 teacher preparation programs and alternative routes  
15 to State certification or licensure programs, the fol-  
16 lowing information:

17 “(A) PASS RATES AND SCALED SCORES.—

18 For the most recent year for which the informa-  
19 tion is available for those students who took the  
20 assessments and are enrolled in the traditional  
21 teacher preparation program or alternative  
22 routes to State certification or licensure pro-  
23 gram, and for those who have taken the assess-  
24 ments and have completed the traditional teach-  
25 er preparation program or alternative routes to  
26 State certification or licensure program during

1 the 2-year period preceding such year, for each  
2 of the assessments used for teacher certification  
3 or licensure by the State in which the program  
4 is located—

5 “(i) the percentage of students who  
6 have completed 100 percent of the nonclin-  
7 ical coursework and taken the assessment  
8 who pass such assessment;

9 “(ii) the percentage of all such stu-  
10 dents who passed each such assessment;

11 “(iii) the percentage of students tak-  
12 ing an assessment who completed the  
13 teacher preparation program after enroll-  
14 ing in the program, which shall be made  
15 available widely and publicly by the State;

16 “(iv) the average scaled score for all  
17 students who took each such assessment;

18 “(v) a comparison of the program’s  
19 pass rates with the average pass rates for  
20 programs in the State; and

21 “(vi) a comparison of the program’s  
22 average scaled scores with the average  
23 scaled scores for programs in the State.

24 “(B) PROGRAM INFORMATION.—The cri-  
25 teria for admission into the program, the num-

1           ber of students in the program (disaggregated  
2           by race and gender), the average number of  
3           hours of supervised clinical experience required  
4           for those in the program, the number of full-  
5           time equivalent faculty and students in the su-  
6           pervised clinical experience, and the total num-  
7           ber of students who have been certified or li-  
8           censed as teachers, disaggregated by subject  
9           and area of certification or licensure.

10           “(C) STATEMENT.—In States that require  
11           approval or accreditation of teacher preparation  
12           programs, a statement of whether the institu-  
13           tion’s program is so approved or accredited,  
14           and by whom.

15           “(D) DESIGNATION AS LOW-PER-  
16           FORMING.—Whether the program has been des-  
17           ignated as low-performing by the State under  
18           section 207(a).

19           “(E) USE OF TECHNOLOGY.—A descrip-  
20           tion of the activities that prepare teachers to ef-  
21           fectively integrate technology into curricula and  
22           instruction and effectively use technology to col-  
23           lect, manage, and analyze data in order to im-  
24           prove teaching, learning, and decision making

1           for the purpose of increasing student academic  
2           achievement.

3           “(2) REPORT.—Each eligible partnership re-  
4           ceiving a grant under section 203 shall report annu-  
5           ally on the progress of the eligible partnership to-  
6           ward meeting the purposes of this part and the ob-  
7           jectives and measures described in section 205(b).

8           “(3) FINES.—The Secretary may impose a fine  
9           not to exceed \$25,000 on an institution of higher  
10          education for failure to provide the information de-  
11          scribed in this subsection in a timely or accurate  
12          manner.

13          “(4) SPECIAL RULE.—In the case of an institu-  
14          tion of higher education that conducts a traditional  
15          teacher preparation program or alternative routes to  
16          State certification or licensure program and has  
17          fewer than 10 scores reported on any single initial  
18          teacher certification or licensure assessment during  
19          an academic year, the institution shall collect and  
20          publish information, as required under paragraph  
21          (1)(A), with respect to an average pass rate and  
22          scaled score on each State certification or licensure  
23          assessment taken over a 3-year period.

24          “(b) STATE REPORT CARD ON THE QUALITY OF  
25          TEACHER PREPARATION.—

1           “(1) IN GENERAL.—Each State that receives  
2 funds under this Act shall provide to the Secretary,  
3 annually, in a uniform and comprehensible manner  
4 that conforms with the definitions and methods es-  
5 tablished by the Secretary, a State report card on  
6 the quality of teacher preparation in the State, both  
7 for traditional teacher preparation programs and for  
8 alternative routes to State certification or licensure  
9 programs, which shall include not less than the fol-  
10 lowing:

11                   “(A) A description of reliability and valid-  
12 ity of the teacher certification and licensure as-  
13 sessments, and any other certification and licen-  
14 sure requirements, used by the State.

15                   “(B) The standards and criteria that pro-  
16 spective teachers must meet in order to attain  
17 initial teacher certification or licensure and to  
18 be certified or licensed to teach particular aca-  
19 demic subject areas or in particular grades  
20 within the State.

21                   “(C) A description of how the assessments  
22 and requirements described in subparagraph  
23 (A) are aligned with the State’s challenging  
24 academic content standards required under sec-  
25 tion 1111(b)(1) of the Elementary and Sec-

1           ondary Education Act of 1965 and State early  
2           learning standards for early childhood education  
3           programs.

4           “(D) For each of the assessments used by  
5           the State for teacher certification or licensure—

6                   “(i) for each institution of higher edu-  
7                   cation located in the State and each entity  
8                   located in the State that offers an alter-  
9                   native route for teacher certification or li-  
10                  censure, the percentage of students at such  
11                  institution or entity who have completed  
12                  100 percent of the nonclinical coursework  
13                  and taken the assessment who pass such  
14                  assessment;

15                   “(ii) the percentage of all such stu-  
16                   dents at all such institutions taking the as-  
17                   sessment who pass such assessment; and

18                   “(iii) the percentage of students tak-  
19                   ing an assessment who completed the  
20                   teacher preparation program after enroll-  
21                   ing in the program, which shall be made  
22                   available widely and publicly by the State.

23           “(E) A description of alternative routes to  
24           State certification or licensure in the State (in-  
25           cluding any such routes operated by entities

1 that are not institutions of higher education), if  
2 any, including, for each of the assessments used  
3 by the State for teacher certification or  
4 licensure—

5 “(i) the percentage of individuals par-  
6 ticipating in such routes, or who have com-  
7 pleted such routes during the 2-year period  
8 preceding the date of the determination,  
9 who passed each such assessment; and

10 “(ii) the average scaled score of indi-  
11 viduals participating in such routes, or who  
12 have completed such routes during the pe-  
13 riod preceding the date of the determina-  
14 tion, who took each such assessment.

15 “(F) A description of the State’s criteria  
16 for assessing the performance of teacher prepa-  
17 ration programs within institutions of higher  
18 education in the State. Such criteria shall in-  
19 clude indicators of the academic content knowl-  
20 edge and teaching skills of students enrolled in  
21 such programs.

22 “(G) For each teacher preparation pro-  
23 gram in the State, the criteria for admission  
24 into the program, the number of students in the  
25 program, disaggregated by race and gender (ex-

1           cept that such disaggregation shall not be re-  
2           quired in a case in which the number of stu-  
3           dents in a category is insufficient to yield sta-  
4           tistically reliable information or the results  
5           would reveal personally identifiable information  
6           about an individual student), the average num-  
7           ber of hours of supervised clinical experience re-  
8           quired for those in the program, and the num-  
9           ber of full-time equivalent faculty, adjunct fac-  
10          ulty, and students in supervised clinical experi-  
11          ence.

12                 “(H) For the State as a whole, and for  
13                 each teacher preparation program in the State,  
14                 the number of teachers prepared, in the aggre-  
15                 gate and reported separately by—

16                         “(i) area of certification or licensure;

17                         “(ii) academic major; and

18                         “(iii) subject area for which the teach-  
19                         er has been prepared to teach.

20                 “(I) Using the data generated under sub-  
21                 paragraphs (G) and (H), a description of the  
22                 extent to which teacher preparation programs  
23                 are helping to address shortages of highly quali-  
24                 fied teachers, by area of certification or licen-  
25                 sure, subject, and specialty, in the State’s pub-

1           lic schools, including those areas described in  
2           section 205(a)(5).

3           “(J) A description of the activities that  
4           prepare teachers to effectively integrate tech-  
5           nology into curricula and instruction and effec-  
6           tively use technology to collect, manage, and  
7           analyze data in order to improve teaching,  
8           learning, and decision making for the purpose  
9           of increasing student academic achievement.

10          “(2) PROHIBITION AGAINST CREATING A NA-  
11          TIONAL LIST.—The Secretary shall not create a na-  
12          tional list or ranking of States, institutions, or  
13          schools using the scaled scores provided under this  
14          subsection.

15          “(c) REPORT OF THE SECRETARY ON THE QUALITY  
16          OF TEACHER PREPARATION.—

17          “(1) REPORT CARD.—The Secretary shall pro-  
18          vide to Congress, and publish and make widely avail-  
19          able, a report card on teacher qualifications and  
20          preparation in the United States, including all the  
21          information reported in subparagraphs (A) through  
22          (J) of subsection (b)(1). Such report shall identify  
23          States for which eligible States and eligible partner-  
24          ships received a grant under this part. Such report

1 shall be so provided, published, and made available  
2 annually.

3 “(2) REPORT TO CONGRESS.—The Secretary  
4 shall prepare and submit a report to Congress that  
5 contains the following:

6 “(A) A comparison of States’ efforts to im-  
7 prove the quality of the current and future  
8 teaching force.

9 “(B) A comparison of eligible partnerships’  
10 efforts to improve the quality of the current  
11 and future teaching force.

12 “(C) The national mean and median scaled  
13 scores and pass rate on any standardized test  
14 that is used in more than 1 State for teacher  
15 certification or licensure.

16 “(3) SPECIAL RULE.—In the case of a teacher  
17 preparation program with fewer than 10 scores re-  
18 ported on any single initial teacher certification or li-  
19 censure assessment during an academic year, the  
20 Secretary shall collect and publish information, and  
21 make publicly available, with respect to an average  
22 pass rate and scaled score on each State certification  
23 or licensure assessment taken over a 3-year period.

24 “(d) COORDINATION.—The Secretary, to the extent  
25 practicable, shall coordinate the information collected and

1 published under this part among States for individuals  
2 who took State teacher certification or licensure assess-  
3 ments in a State other than the State in which the indi-  
4 vidual received the individual's most recent degree.

5 **“SEC. 207. STATE FUNCTIONS.**

6       “(a) STATE ASSESSMENT.—In order to receive funds  
7 under this Act, a State shall have in place a procedure  
8 to identify and assist, through the provision of technical  
9 assistance, low-performing programs of teacher prepara-  
10 tion. Such State shall provide the Secretary an annual list  
11 of such low-performing teacher preparation programs that  
12 includes an identification of those programs at risk of  
13 being placed on such list. Such levels of performance shall  
14 be determined solely by the State and may include criteria  
15 based on information collected pursuant to this part. Such  
16 assessment shall be described in the report under section  
17 206(b).

18       “(b) TERMINATION OF ELIGIBILITY.—Any program  
19 of teacher preparation from which the State has with-  
20 drawn the State's approval, or terminated the State's fi-  
21 nancial support, due to the low performance of the pro-  
22 gram based upon the State assessment described in sub-  
23 section (a)—

1           “(1) shall be ineligible for any funding for pro-  
2           fessional development activities awarded by the De-  
3           partment;

4           “(2) shall not be permitted to accept or enroll  
5           any student that receives aid under title IV in the  
6           institution’s teacher preparation program; and

7           “(3) shall provide transitional support, includ-  
8           ing remedial services if necessary, for students en-  
9           rolled at the institution at the time of termination  
10          of financial support or withdrawal of approval.

11          “(c) **NEGOTIATED RULEMAKING.**—If the Secretary  
12          develops any regulations implementing subsection (b)(2),  
13          the Secretary shall submit such proposed regulations to  
14          a negotiated rulemaking process, which shall include rep-  
15          resentatives of States, institutions of higher education,  
16          and educational and student organizations.

17          “(d) **APPLICATION OF THE REQUIREMENTS.**—The  
18          requirements of this section shall apply to both traditional  
19          teacher preparation programs and alternative routes to  
20          State certification and licensure programs.

21          **“SEC. 208. GENERAL PROVISIONS.**

22          “(a) **METHODS.**—In complying with sections 206 and  
23          207, the Secretary shall ensure that States and institu-  
24          tions of higher education use fair and equitable methods

1 in reporting and that the reporting methods do not allow  
2 identification of individuals.

3 “(b) SPECIAL RULE.—For each State that does not  
4 use content assessments as a means of ensuring that all  
5 teachers teaching in core academic subjects within the  
6 State are highly qualified not later than the end of the  
7 2005–2006 school year, as required under section 1119  
8 of the Elementary and Secondary Education Act of 1965,  
9 and that each person employed as a special education  
10 teacher in the State who teaches elementary school, middle  
11 school, or secondary school is highly qualified by such  
12 deadline, as required under section 612(a)(14)(C) of the  
13 Individuals with Disabilities Education Act,—

14 “(1) the Secretary shall, to the extent prac-  
15 ticable, collect data comparable to the data required  
16 under this part from States, local educational agen-  
17 cies, institutions of higher education, or other enti-  
18 ties that administer such assessments to teachers or  
19 prospective teachers; and

20 “(2) notwithstanding any other provision of this  
21 part, the Secretary shall use such data to carry out  
22 requirements of this part related to assessments,  
23 pass rates, and scaled scores.

24 “(c) LIMITATIONS.—

1           “(1) FEDERAL CONTROL PROHIBITED.—Noth-  
2           ing in this title shall be construed to permit, allow,  
3           encourage, or authorize any Federal control over any  
4           aspect of any private, religious, or home school,  
5           whether or not a home school is treated as a private  
6           school or home school under State law. This section  
7           shall not be construed to prohibit private, religious,  
8           or home schools from participation in programs or  
9           services under this title.

10           “(2) NO CHANGE IN STATE CONTROL ENCOUR-  
11           AGED OR REQUIRED.—Nothing in this title shall be  
12           construed to encourage or require any change in a  
13           State’s treatment of any private, religious, or home  
14           school, whether or not a home school is treated as  
15           a private school or home school under State law.

16           “(3) NATIONAL SYSTEM OF TEACHER CERTIFI-  
17           CATION OR LICENSURE PROHIBITED.—Nothing in  
18           this title shall be construed to permit, allow, encour-  
19           age, or authorize the Secretary to establish or sup-  
20           port any national system of teacher certification or  
21           licensure.

22           “(d) RELEASE OF INFORMATION TO TEACHER PREP-  
23           ARATION PROGRAMS.—

24           “(1) IN GENERAL.—For the purpose of improv-  
25           ing teacher preparation programs, a State edu-

1       cational agency shall provide to a teacher prepara-  
2       tion program, upon the request of the teacher prepa-  
3       ration program, any and all pertinent education-re-  
4       lated information that—

5               “(A) may enable the teacher preparation  
6               program to evaluate the effectiveness of the  
7               program’s graduates or the program itself; and

8               “(B) is possessed, controlled, or accessible  
9               by the State educational agency.

10              “(2) CONTENT OF INFORMATION.—The infor-  
11             mation described in paragraph (1)—

12               “(A) shall include an identification of spe-  
13               cific individuals who graduated from the teach-  
14               er preparation program to enable the teacher  
15               preparation program to evaluate the informa-  
16               tion provided to the program from the State  
17               educational agency with the program’s own  
18               data about the specific courses taken by, and  
19               field experiences of, the individual graduates;  
20               and

21               “(B) may include—

22                   “(i) kindergarten through grade 12  
23                   academic achievement and demographic  
24                   data, without revealing personally identifi-  
25                   able information about an individual stu-

1           dent, for students who have been taught by  
 2           graduates of the teacher preparation pro-  
 3           gram; and

4                   “(ii) teacher effectiveness evaluations  
 5           for teachers who graduated from the teach-  
 6           er preparation program.

7   **“SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

8           “(a) IN GENERAL.—There are authorized to be ap-  
 9   propriated to carry out this part such sums as may be  
 10   necessary for fiscal year 2006 and each of the 5 suc-  
 11   ceeding fiscal years, of which—

12                   “(1) 50 percent shall be available for each fiscal  
 13   year to award grants under section 202; and

14                   “(2) 50 percent shall be available for each fiscal  
 15   year to award grants under section 203.

16           “(b) SPECIAL RULE.—If the Secretary determines  
 17   that there is an insufficient number of meritorious appli-  
 18   cations for grants under section 202 or 203 to justify  
 19   awarding the full amount described in paragraph (1) or  
 20   (2) of subsection (a), respectively, the Secretary may, after  
 21   funding the meritorious applications, use the remaining  
 22   funds for grants under the other such section.”.

23                   **CHAPTER 4—INSTITUTIONAL AID**

24   **SEC. 7341. PROGRAM PURPOSE.**

25           Section 311 (20 U.S.C. 1057) is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (1), by striking “351”  
3 and inserting “391”; and

4 (B) in paragraph (3)(F), by inserting “,  
5 including services that will assist in the edu-  
6 cation of special populations” before the period;  
7 and

8 (2) in subsection (c)—

9 (A) in paragraph (6), by inserting “, in-  
10 cluding innovative, customized, remedial edu-  
11 cation and English language instruction courses  
12 designed to help retain students and move the  
13 students rapidly into core courses and through  
14 program completion” before the period;

15 (B) by redesignating paragraphs (7)  
16 through (12) as paragraphs (8) through (13),  
17 respectively;

18 (C) by inserting after paragraph (6) the  
19 following:

20 “(7) Education or counseling services designed  
21 to improve the financial literacy and economic lit-  
22 eracy of students or the students’ parents.”; and

23 (D) in the matter preceding subparagraph

24 (A) of paragraph (13) (as redesignated by sub-

1 paragraph (B)), by striking “subsection (c)”  
2 and inserting “subsection (b) and section 391”.

3 **SEC. 7342. DEFINITIONS; ELIGIBILITY.**

4 Section 312 (20 U.S.C. 1058) is amended—

5 (1) in subsection (b)(1)(A), by striking “sub-  
6 section (c) of this section” and inserting “subsection  
7 (d)”; and

8 (2) in subsection (d)(2), by striking “subdivi-  
9 sion” and inserting “paragraph”.

10 **SEC. 7343. AMERICAN INDIAN TRIBALLY CONTROLLED COL-  
11 LEGES AND UNIVERSITIES.**

12 Section 316 (20 U.S.C. 1059c) is amended—

13 (1) by striking subsection (b)(3) and inserting  
14 the following:

15 “(3) TRIBAL COLLEGE OR UNIVERSITY.—The  
16 term ‘Tribal College or University’ means an institu-  
17 tion that—

18 “(A) qualifies for funding under the Trib-  
19 ally Controlled College or University Assistance  
20 Act of 1978 (25 U.S.C. 1801 et seq.) or the  
21 Navajo Community College Assistance Act of  
22 1978 (25 U.S.C. 640a note); or

23 “(B) is cited in section 532 of the Equity  
24 in Educational Land-Grant Status Act of 1994  
25 (7 U.S.C. 301 note).”;

1 (2) in subsection (c)(2)—

2 (A) in subparagraph (B), by inserting be-  
3 fore the semicolon at the end the following:  
4 “and the acquisition of real property adjacent  
5 to the campus of the institution”;

6 (B) by redesignating subparagraphs (G),  
7 (H), (I), (J), (K), and (L) as subparagraphs  
8 (H), (I), (J), (K), (L), and (N), respectively;

9 (C) by inserting after subparagraph (F)  
10 the following:

11 “(G) education or counseling services de-  
12 signed to improve the financial literacy and eco-  
13 nomic literacy of students or parents of stu-  
14 dents;”;

15 (D) in subparagraph (L) (as redesignated  
16 by subparagraph (B)), by striking “and” after  
17 the semicolon;

18 (E) by inserting after subparagraph (L)  
19 (as redesignated by subparagraph (B)) the fol-  
20 lowing:

21 “(M) developing or improving facilities for  
22 Internet use or other distance learning aca-  
23 demic instruction capabilities; and”;

24 (F) in subparagraph (N) (as redesignated  
25 by subparagraph (B)), by striking “subpara-

1           graphs (A) through (K)” and inserting “sub-  
2           paragraphs (A) through (M)”;

3           (3) by striking subsection (d) and inserting the  
4           following:

5           “(d) APPLICATION, PLAN, AND ALLOCATION.—

6                 “(1) INSTITUTIONAL ELIGIBILITY.—To be eligi-  
7           ble to receive assistance under this section, a Tribal  
8           College or University shall be an eligible institution  
9           under section 312(b).

10               “(2) APPLICATION.—

11                   “(A) IN GENERAL.—A Tribal College or  
12           University desiring to receive assistance under  
13           this section shall submit an application to the  
14           Secretary at such time, and in such manner, as  
15           the Secretary may reasonably require.

16                   “(B) STREAMLINED PROCESS.—The Sec-  
17           retary shall establish application requirements  
18           in such a manner as to simplify and streamline  
19           the process for applying for grants.

20               “(3) ALLOCATIONS TO INSTITUTIONS.—

21                   “(A) CONSTRUCTION GRANTS.—

22                         “(i) IN GENERAL.—Of the amount ap-  
23           propriated to carry out this section for any  
24           fiscal year, the Secretary may reserve 30  
25           percent for the purpose of awarding 1-year

1 grants of not less than \$1,000,000 to ad-  
2 dress construction, maintenance, and ren-  
3 ovation needs at eligible institutions.

4 “(ii) PREFERENCE.—In providing  
5 grants under clause (i), the Secretary shall  
6 give preference to eligible institutions that  
7 have not yet received an award under this  
8 section.

9 “(B) ALLOTMENT OF REMAINING  
10 FUNDS.—

11 “(i) IN GENERAL.—Except as pro-  
12 vided in clause (ii), the Secretary shall dis-  
13 tribute the remaining funds appropriated  
14 for any fiscal year to each eligible institu-  
15 tion as follows:

16 “(I) 60 percent of the remaining  
17 appropriated funds shall be distrib-  
18 uted among the eligible Tribal Col-  
19 leges and Universities on a pro rata  
20 basis, based on the respective Indian  
21 student counts (as defined in section  
22 2(a) of the Tribally Controlled College  
23 or University Assistance Act of 1978  
24 (25 U.S.C. 1801(a)) of the Tribal  
25 Colleges and Universities; and

1                   “(II) the remaining 40 percent  
2                   shall be distributed in equal shares to  
3                   the eligible Tribal Colleges and Uni-  
4                   versities.

5                   “(ii) MINIMUM GRANT.—The amount  
6                   distributed to a Tribal College or Univer-  
7                   sity under clause (i) shall not be less than  
8                   \$500,000.

9                   “(4) SPECIAL RULES.—

10                   “(A) CONCURRENT FUNDING.—For the  
11                   purposes of this part, no Tribal College or Uni-  
12                   versity that is eligible for and receives funds  
13                   under this section shall concurrently receive  
14                   funds under other provisions of this part or  
15                   part B.

16                   “(B) EXEMPTION.—Section 313(d) shall  
17                   not apply to institutions that are eligible to re-  
18                   ceive funds under this section.”.

19 **SEC. 7344. ALASKA NATIVE AND NATIVE HAWAIIAN-SERV-**  
20 **ING INSTITUTIONS.**

21                   Section 317(e)(2) (20 U.S.C. 1059d(e)(2)) is  
22 amended—

23                   (1) in subparagraph (G), by striking “and”  
24                   after the semicolon;

1           (2) in subparagraph (H), by striking the period  
2           and inserting “; and”; and

3           (3) by adding at the end the following:

4                   “(I) education or counseling services de-  
5                   signed to improve the financial literacy and eco-  
6                   nomic literacy of students or the students’ par-  
7                   ents.”.

8   **SEC. 7345. NATIVE AMERICAN-SERVING, NONTRIBAL INSTI-**  
9                   **TUTIONS.**

10          (a) GRANT PROGRAM AUTHORIZED.—Part A of title  
11    III (20 U.S.C. 1057 et seq.) is amended by adding at the  
12    end the following:

13   **“SEC. 318. NATIVE AMERICAN-SERVING, NONTRIBAL INSTI-**  
14                   **TUTIONS.**

15          “(a) PROGRAM AUTHORIZED.—The Secretary shall  
16    provide grants and related assistance to Native American-  
17    serving, nontribal institutions to enable such institutions  
18    to improve and expand their capacity to serve Native  
19    Americans.

20          “(b) DEFINITIONS.—In this section:

21                   “(1) NATIVE AMERICAN.—The term ‘Native  
22    American’ means an individual who is of a tribe,  
23    people, or culture that is indigenous to the United  
24    States.

1           “(2) NATIVE AMERICAN-SERVING, NONTRIBAL  
2           INSTITUTION.—The term ‘Native American-serving,  
3           nontribal institution’ means an institution of higher  
4           education that, at the time of application—

5                   “(A) has an enrollment of undergraduate  
6                   students that is not less than 10 percent Native  
7                   American students; and

8                   “(B) is not a Tribal College or University  
9                   (as defined in section 316).

10          “(c) AUTHORIZED ACTIVITIES.—

11               “(1) TYPES OF ACTIVITIES AUTHORIZED.—  
12               Grants awarded under this section shall be used by  
13               Native American-serving, nontribal institutions to  
14               assist such institutions to plan, develop, undertake,  
15               and carry out activities to improve and expand such  
16               institutions’ capacity to serve Native Americans.

17               “(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—  
18               Such programs may include—

19                   “(A) the purchase, rental, or lease of sci-  
20                   entific or laboratory equipment for educational  
21                   purposes, including instructional and research  
22                   purposes;

23                   “(B) renovation and improvement in class-  
24                   room, library, laboratory, and other instruc-  
25                   tional facilities;

1           “(C) support of faculty exchanges, and fac-  
2           ulty development and faculty fellowships to as-  
3           sist faculty in attaining advanced degrees in the  
4           faculty’s field of instruction;

5           “(D) curriculum development and aca-  
6           demic instruction;

7           “(E) the purchase of library books, peri-  
8           odicals, microfilm, and other educational mate-  
9           rials;

10          “(F) funds and administrative manage-  
11          ment, and acquisition of equipment for use in  
12          strengthening funds management;

13          “(G) the joint use of facilities such as lab-  
14          oratories and libraries; and

15          “(H) academic tutoring and counseling  
16          programs and student support services.

17          “(d) APPLICATION PROCESS.—

18           “(1) INSTITUTIONAL ELIGIBILITY.—A Native  
19           American-serving, nontribal institution desiring to  
20           receive assistance under this section shall submit to  
21           the Secretary such enrollment data as may be nec-  
22           essary to demonstrate that the institution is a Na-  
23           tive American-serving, nontribal institution, along  
24           with such other information and data as the Sec-  
25           retary may by regulation require.

1 “(2) APPLICATIONS.—

2 “(A) PERMISSION TO SUBMIT APPLICA-  
3 TIONS.—Any institution that is determined by  
4 the Secretary to be a Native American-serving,  
5 nontribal institution may submit an application  
6 for assistance under this section to the Sec-  
7 retary.

8 “(B) SIMPLIFIED AND STREAMLINED FOR-  
9 MAT.—The Secretary shall, to the extent pos-  
10 sible, prescribe a simplified and streamlined for-  
11 mat for applications under this section that  
12 takes into account the limited number of insti-  
13 tutions that are eligible for assistance under  
14 this section.

15 “(C) CONTENT.—An application submitted  
16 under subparagraph (A) shall include—

17 “(i) a 5-year plan for improving the  
18 assistance provided by the Native Amer-  
19 ican-serving, nontribal institution to Native  
20 Americans; and

21 “(ii) such other information and as-  
22 surances as the Secretary may require.

23 “(3) SPECIAL RULES.—

24 “(A) ELIGIBILITY.—No Native American-  
25 serving, nontribal institution that receives funds

1 under this section shall concurrently receive  
2 funds under other provisions of this part or  
3 part B.

4 “(B) EXEMPTION.—Section 313(d) shall  
5 not apply to institutions that are eligible to re-  
6 ceive funds under this section.

7 “(C) DISTRIBUTION.—In awarding grants  
8 under this section, the Secretary shall, to the  
9 extent possible and consistent with the competi-  
10 tive process under which such grants are  
11 awarded, ensure maximum and equitable dis-  
12 tribution among all eligible institutions.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
14 399 (20 U.S.C. 1068h) is amended by adding at the end  
15 the following:

16 “(c) MINIMUM GRANT AMOUNT.—The minimum  
17 amount of a grant under this title shall be \$200,000.”.

18 **SEC. 7346. PART B DEFINITIONS.**

19 Section 322(4) (20 U.S.C. 1061(4)) is amended by  
20 inserting “, in consultation with the Commissioner for  
21 Education Statistics” before “and the Commissioner”.

22 **SEC. 7347. GRANTS TO INSTITUTIONS.**

23 Section 323(a) (20 U.S.C. 1062(a)) is amended—

24 (1) in the matter preceding paragraph (1), by  
25 striking “360(a)(2)” and inserting “399(a)(2)”;

1           (2) by redesignating paragraphs (7) through  
2           (12) as paragraphs (8) through (13), respectively;  
3           and

4           (3) by inserting after paragraph (6) the fol-  
5           lowing:

6           “(7) Education or counseling services designed  
7           to improve the financial literacy and economic lit-  
8           eracy of students or the students’ parents.”.

9   **SEC. 7348. ALLOTMENTS TO INSTITUTIONS.**

10          Section 324 (20 U.S.C. 1063) is amended by adding  
11          at the end the following:

12          “(h) SPECIAL RULE ON ELIGIBILITY.—Notwith-  
13          standing any other provision of this section, a part B insti-  
14          tution shall not receive an allotment under this section un-  
15          less the part B institution provides, on an annual basis,  
16          data indicating that the part B institution—

17                 “(1) enrolled Federal Pell Grant recipients in  
18                 the preceding academic year;

19                 “(2) in the preceding academic year, has grad-  
20                 uated students from a program of academic study  
21                 that is licensed or accredited by a nationally recog-  
22                 nized accrediting agency or association recognized by  
23                 the Secretary pursuant to part H of title IV where  
24                 appropriate; and

1           “(3) where appropriate, has graduated students  
2           who, within the past 5 years, enrolled in graduate or  
3           professional school.”.

4 **SEC. 7349. PROFESSIONAL OR GRADUATE INSTITUTIONS.**

5           Section 326 (20 U.S.C. 1063b) is amended—

6           (1) in subsection (c)—

7                   (A) in paragraph (2), by inserting “, and  
8                   for the acquisition and development of real  
9                   property that is adjacent to the campus for  
10                  such construction, maintenance, renovation, or  
11                  improvement” after “services”;

12                  (B) by redesignating paragraphs (5)  
13                  through (7) as paragraphs (7) through (9), re-  
14                  spectively;

15                  (C) by inserting after paragraph (4) the  
16                  following:

17                   “(5) tutoring, counseling, and student service  
18                   programs designed to improve academic success;

19                   “(6) education or counseling services designed  
20                   to improve the financial literacy and economic lit-  
21                   eracy of students or the students’ parents;”;

22                  (D) in paragraph (7) (as redesignated by  
23                  subparagraph (B)), by striking “establish or  
24                  improve” and inserting “establishing or improv-  
25                  ing”;

1 (E) in paragraph (8) (as redesignated by  
2 subparagraph (B))—

3 (i) by striking “assist” and inserting  
4 “assisting”; and

5 (ii) by striking “and” after the semi-  
6 colon;

7 (F) in paragraph (9) (as redesignated by  
8 subparagraph (B)), by striking the period and  
9 inserting “; and”; and

10 (G) by adding at the end the following:

11 “(10) other activities proposed in the applica-  
12 tion submitted under subsection (d) that—

13 “(A) contribute to carrying out the pur-  
14 poses of this part; and

15 “(B) are approved by the Secretary as part  
16 of the review and acceptance of such applica-  
17 tion.”;

18 (2) in subsection (e)—

19 (A) in paragraph (1)—

20 (i) by inserting a colon after “the fol-  
21 lowing”;

22 (ii) in subparagraph (Q), by striking  
23 “and” at the end;

24 (iii) in subparagraph (R), by striking  
25 the period and inserting a semicolon; and

1 (iv) by adding at the end the fol-  
2 lowing:

3 “(S) Alabama State University qualified  
4 graduate program;

5 “(T) Coppin State University qualified  
6 graduate program; and

7 “(U) Prairie View A & M University quali-  
8 fied graduate program.”;

9 (B) in paragraph (2), by inserting “in law  
10 or” after “instruction”; and

11 (C) in paragraph (3)—

12 (i) by striking “1998” and inserting  
13 “2006”; and

14 (ii) by striking “(Q) and (R)” and in-  
15 serting “(S), (T), and (U)”;

16 (3) in subsection (f)—

17 (A) in paragraph (1), by striking “(P)”  
18 and inserting “(R)”;

19 (B) in paragraph (3)—

20 (i) by striking subparagraphs (A) and  
21 (B) and inserting the following:

22 “(A) The amount of non-Federal funds for  
23 the fiscal year for which the determination is  
24 made that the institution or program listed in  
25 subsection (e)—

1           “(i) allocates from institutional re-  
2 sources;

3           “(ii) secures from non-Federal  
4 sources, including amounts appropriated  
5 by the State and amounts from the private  
6 sector; and

7           “(iii) will utilize to match Federal  
8 funds awarded for the fiscal year for which  
9 the determination is made under this sec-  
10 tion to the institution or program.

11           “(B) The number of students enrolled in  
12 the qualified graduate programs of the eligible  
13 institution or program, for which the institution  
14 or program received and allocated funding  
15 under this section in the preceding year.”;

16           (ii) in subparagraph (C), by striking  
17 “(or the equivalent) enrolled in the eligible  
18 professional or graduate school” and all  
19 that follows through the period and insert-  
20 ing “enrolled in the qualified programs or  
21 institutions listed in paragraph (1).”;

22           (iii) in subparagraph (D)—

23           (I) by striking “students” and in-  
24 serting “Black American students or  
25 minority students”; and

1 (II) by striking “institution” and  
2 inserting “institution or program”;  
3 and

4 (iv) by striking subparagraph (E) and  
5 inserting the following:

6 “(E) The percentage that the total number  
7 of Black American students and minority stu-  
8 dents who receive their first professional, mas-  
9 ter’s, or doctoral degrees from the institution or  
10 program in the academic year preceding the  
11 academic year for which the determination is  
12 made, represents of the total number of Black  
13 American students and minority students in the  
14 United States who receive their first profes-  
15 sional, master’s, or doctoral degrees in the pro-  
16 fessions or disciplines related to the course of  
17 study at such institution or program, respec-  
18 tively, in the preceding academic year.”; and

19 (4) in subsection (g), by striking “1998” and  
20 inserting “2006”.

21 **SEC. 7350. AUTHORIZATION OF APPROPRIATIONS.**

22 Subsection (a) of section 399 (20 U.S.C. 1068h) is  
23 amended to read as follows:

24 “(a) AUTHORIZATIONS.—

1           “(1) PART A.—(A) There are authorized to be  
2           appropriated to carry out part A (other than section  
3           316) such sums as may be necessary for fiscal year  
4           2006 and each of the 5 succeeding fiscal years.

5           “(B) There are authorized to be appropriated  
6           to carry out section 316 such sums as may be nec-  
7           essary for fiscal year 2006 and each of the 5 suc-  
8           ceeding fiscal years.

9           “(C) There are authorized to be appropriated to  
10          carry out section 317 such sums as may be nec-  
11          essary for fiscal year 2006 and each of the 5 suc-  
12          ceeding fiscal years.

13          “(D) There are authorized to be appropriated  
14          to carry out section 318 such sums as may be nec-  
15          essary for fiscal year 2006 and each of the 5 suc-  
16          ceeding fiscal years.

17          “(2) PART B.—(A) There are authorized to be  
18          appropriated to carry out part B (other than section  
19          326) such sums as may be necessary for fiscal year  
20          2006 and each of the 5 succeeding fiscal years.

21          “(B) There are authorized to be appropriated  
22          to carry out section 326 such sums as may be nec-  
23          essary for fiscal year 2006 and each of the 5 suc-  
24          ceeding fiscal years.

1           “(3) PART C.—There are authorized to be ap-  
 2           propriated to carry out part C such sums as may be  
 3           necessary for fiscal year 2006 and each of the 5 suc-  
 4           ceeding fiscal years.

5           “(4) PART D.—(A) There are authorized to be  
 6           appropriated to carry out part D (other than section  
 7           345(7), but including section 347) such sums as  
 8           may be necessary for fiscal year 2006 and each of  
 9           the 5 succeeding fiscal years.

10           “(B) There are authorized to be appropriated  
 11           to carry out section 345(7) such sums as may be  
 12           necessary for fiscal year 2006 and each of the 5 suc-  
 13           ceeding fiscal years.

14           “(5) PART E.—There are authorized to be ap-  
 15           propriated to carry out part E such sums as may be  
 16           necessary for fiscal year 2006 and each of the 5 suc-  
 17           ceeding fiscal years.”.

18 **SEC. 7351. TECHNICAL CORRECTIONS.**

19           Title III (20 U.S.C. 1051 et seq.) is further  
 20           amended—

21           (1) in section 342(5)(C) (20 U.S.C.  
 22           1066a(5)(C)), by striking “,” and inserting “,”;

23           (2) in section 343(e) (20 U.S.C. 1066b(e)), by  
 24           inserting “SALE OF QUALIFIED BONDS.—” before  
 25           “Notwithstanding”;

1           (3) in the matter preceding clause (i) of section  
2           365(9)(A) (20 U.S.C. 1067k(9)(A)), by striking  
3           “support” and inserting “supports”;

4           (4) in section 391(b)(7)(E) (20 U.S.C.  
5           1068(b)(7)(E)), by striking “subparagraph (E)” and  
6           inserting “subparagraph (D)”;

7           (5) in the matter preceding subparagraph (A)  
8           of section 392(b)(2) (20 U.S.C. 1068a(b)(2)), by  
9           striking “eligible institutions under part A institu-  
10          tions” and inserting “eligible institutions under part  
11          A”; and

12          (6) in the matter preceding paragraph (1) of  
13          section 396 (20 U.S.C. 1068e), by striking “360”  
14          and inserting “399”.

## 15           **CHAPTER 5—STUDENT ASSISTANCE**

### 16           **Subchapter A—Grants to Students in Attend-** 17           **ance at Institutions of Higher Education**

#### 18           **SEC. 7361. FEDERAL PELL GRANTS.**

19           Section 401 (20 U.S.C. 1070a) is amended—

20           (1) in subsection (a)(1)—

21           (A) in the first sentence, by striking  
22           “2004” and inserting “2012”; and

23           (B) in the second sentence, by striking “,”  
24           and inserting “,”;

25           (2) in subsection (b)—

1 (A) by striking paragraph (2)(A) and in-  
2 serting the following:

3 “(2)(A) the amount of the Federal Pell Grant for a  
4 student eligible under this part shall be—

5 “(i) \$5,100 for academic year 2006–2007;

6 “(ii) \$5,400 for academic year 2007–2008;

7 “(iii) \$5,700 for academic year 2008–2009;

8 “(iv) \$6,000 for academic year 2009–2010; and

9 “(v) \$6,300 for academic year 2010–2011,

10 less an amount equal to the amount determined to be the  
11 expected family contribution with respect to that student  
12 for that year.”;

13 (B) by striking paragraph (3);

14 (C) by redesignating paragraphs (4)  
15 through (8) as paragraphs (3) through (7), re-  
16 spectively;

17 (D) in paragraph (4) (as redesignated by  
18 subparagraph (C)), by striking “\$400, except”  
19 and all that follows through the period and in-  
20 serting “10 percent of the maximum basic  
21 grant level specified in the appropriate Approp-  
22 riation Act for such academic year, except that  
23 a student who is eligible for a Federal Pell  
24 Grant in an amount that is equal to or greater  
25 than 5 percent of such level but less than 10

1           percent of such level shall be awarded a Federal  
2           Pell grant in the amount of 10 percent of such  
3           level.”; and

4           (E) by striking paragraph (5) (as redesignated by subparagraph (C)) and inserting the  
5           following:  
6

7           “(5) In the case of a student who is enrolled, on at  
8           least a half-time basis and for a period of more than 1  
9           academic year in a 2-year or 4-year program of instruction  
10          for which an institution of higher education awards an as-  
11          sociate or baccalaureate degree, the Secretary shall allow  
12          such student to receive not more than 2 Federal Pell  
13          Grants during a single award year to permit such student  
14          to accelerate the student’s progress toward a degree by  
15          attending additional sessions. In the case of a student re-  
16          ceiving more than 1 Federal Pell Grant in a single award  
17          year, the total amount of Federal Pell Grants awarded to  
18          such student for the award year may exceed the maximum  
19          basic grant level specified in the appropriate Appropria-  
20          tion Act for such award year.”; and

21          (3) in subsection (c), by adding at the end the  
22          following:

23          “(5) The period of time during which a student may  
24          receive Federal Pell Grants shall not exceed 18 semesters,

1 or an equivalent period of time as determined by the Sec-  
 2 retary pursuant to regulations, which period shall—

3 “(A) be determined without regard to whether  
 4 the student is enrolled on a full-time basis during  
 5 any portion of the period of time; and

6 “(B) include any period of time for which the  
 7 student received a Federal Pell Grant prior to the  
 8 date of enactment of the Higher Education Amend-  
 9 ments of 2005.”.

10 **SEC. 7362. FEDERAL TRIO PROGRAMS.**

11 (a) PROGRAM AUTHORITY; AUTHORIZATION OF AP-  
 12 PROPRIATIONS.—Section 402A (20 U.S.C. 1070a–11) is  
 13 amended—

14 (1) in subsection (b)—

15 (A) in paragraph (2)—

16 (i) in the matter preceding subpara-  
 17 graph (A), by striking “4” and inserting  
 18 “5”;

19 (ii) by striking subparagraph (A); and

20 (iii) by redesignating subparagraphs  
 21 (B) and (C) as subparagraphs (A) and  
 22 (B), respectively; and

23 (B) by striking paragraph (3) and insert-  
 24 ing the following:

1           “(3) MINIMUM GRANTS.—Unless the institution  
2 or agency requests a smaller amount, an individual  
3 grant authorized under this chapter shall be award-  
4 ed in an amount that is not less than \$200,000, ex-  
5 cept that an individual grant authorized under sec-  
6 tion 402G shall be awarded in an amount that is not  
7 less than \$170,000.”;

8           (2) in subsection (c)—

9           (A) in paragraph (2), by striking “service  
10 delivery” and inserting “high quality service de-  
11 livery, as determined under subsection (f),”;

12           (B) in paragraph (3)(B), by striking “is  
13 not required to” and inserting “shall not”; and

14           (C) in paragraph (5), by striking “cam-  
15 puses” and inserting “different campuses”;

16           (3) in subsection (e), by striking “(g)(2)” each  
17 place the term occurs and inserting “(h)(4)”;

18           (4) by redesignating subsections (f) and (g) as  
19 subsections (g) and (h), respectively;

20           (5) by inserting after subsection (e) the fol-  
21 lowing:

22           “(f) OUTCOME CRITERIA.—

23           “(1) IN GENERAL.—The Secretary, by regula-  
24 tion, shall establish outcome criteria for measuring,  
25 annually and for longer periods, the quality and ef-

1       fectiveness of programs authorized under this chap-  
2       ter.

3               “(2) USE FOR PRIOR EXPERIENCE DETERMINA-  
4       TION.—The outcome criteria under paragraph (1)  
5       shall be used to evaluate the programs provided by  
6       a recipient of a grant under this chapter, and the  
7       Secretary shall determine an eligible entity’s prior  
8       experience of high quality service delivery, as re-  
9       quired in subsection (c)(2), based on the outcome  
10      criteria.

11              “(3) CONSIDERATION OF RELEVANT DATA.—  
12      The outcome criteria under this subsection shall  
13      take into account data pertaining to secondary  
14      school completion, postsecondary education enroll-  
15      ment, and postsecondary education completion for  
16      low-income students, first generation college stu-  
17      dents, and individuals with disabilities, in the schools  
18      and institutions of higher education served by the  
19      program to be evaluated.

20              “(4) CONTENTS OF OUTCOME CRITERIA.—The  
21      outcome criteria shall include the following:

22                      “(A) For programs authorized under sec-  
23                      tion 402B, whether the eligible entity met or  
24                      exceeded the entity’s objectives established in

1 the entity's application for such program  
2 regarding—

3 “(i) the delivery of service to a total  
4 number of students served by the program;

5 “(ii) the continued secondary school  
6 enrollment of such students;

7 “(iii) the graduation of such students  
8 from secondary school; and

9 “(iv) the enrollment of such students  
10 in an institution of higher education.

11 “(B) For programs authorized under sec-  
12 tion 402C, whether the eligible entity met or ex-  
13 ceeded its objectives for such program  
14 regarding—

15 “(i) the delivery of service to a total  
16 number of students served by the program,  
17 as agreed upon by the entity and the Sec-  
18 retary for the period;

19 “(ii) such students' school perform-  
20 ance, as measured by the grade point aver-  
21 age, or its equivalent;

22 “(iii) such students' academic per-  
23 formance, as measured by standardized  
24 tests, including tests required by the stu-  
25 dents' State;

1           “(iv) the retention in, and graduation  
2           from, secondary school of such students;  
3           and

4           “(v) the enrollment of such students  
5           in an institution of higher education.

6           “(C) For programs authorized under sec-  
7           tion 402D—

8           “(i) whether the eligible entity met or  
9           exceeded the entity’s objectives regarding  
10          the retention in postsecondary education of  
11          the students served by the program;

12          “(ii)(I) in the case of an entity that is  
13          an institution of higher education offering  
14          a baccalaureate degree, the extent to which  
15          the entity met or exceeded the entity’s ob-  
16          jectives regarding such students’ comple-  
17          tion of the degree programs in which such  
18          students were enrolled; or

19          “(II) in the case of an entity that is  
20          an institution of higher education that does  
21          not offer a baccalaureate degree, the extent  
22          to which the entity met or exceeded the en-  
23          tity’s objectives regarding—

24                  “(aa) the completion of a degree  
25                  or certificate by such students; and

1                   “(bb) the transfer of such stu-  
2                   dents to institutions of higher edu-  
3                   cation that offer baccalaureate de-  
4                   grees;

5                   “(iii) whether the entity met or ex-  
6                   ceeded the entity’s objectives regarding the  
7                   delivery of service to a total number of stu-  
8                   dents, as agreed upon by the entity and  
9                   the Secretary for the period; and

10                   “(iv) whether the applicant met or ex-  
11                   ceeded the entity’s objectives regarding  
12                   such students remaining in good academic  
13                   standing.

14                   “(D) For programs authorized under sec-  
15                   tion 402E, whether the entity met or exceeded  
16                   the entity’s objectives for such program  
17                   regarding—

18                   “(i) the delivery of service to a total  
19                   number of students, as agreed upon by the  
20                   entity and the Secretary for the period;

21                   “(ii) the provision of appropriate  
22                   scholarly and research activities for the  
23                   students served by the program;

1           “(iii) the acceptance and enrollment  
2 of such students in graduate programs;  
3 and

4           “(iv) the attainment of doctoral de-  
5 grees by former program participants.

6           “(E) For programs authorized under sec-  
7 tion 402F, whether the entity met or exceeded  
8 the entity’s objectives for such program  
9 regarding—

10           “(i) the enrollment of students with-  
11 out a secondary school diploma or its rec-  
12 ognized equivalent, who were served by the  
13 program, in programs leading to such di-  
14 ploma or equivalent;

15           “(ii) the enrollment of secondary  
16 school graduates who were served by the  
17 program in programs of postsecondary  
18 education;

19           “(iii) the delivery of service to a total  
20 number of students, as agreed upon by the  
21 entity and the Secretary for the period;  
22 and

23           “(iv) the provision of assistance to  
24 students served by the program in com-

1           pleting financial aid applications and col-  
2           lege admission applications.”;

3           (6) in subsection (g) (as redesignated by para-  
4           graph (4))—

5           (A) in the first sentence, by striking  
6           “\$700,000,000 for fiscal year 1999” and all  
7           that follows through the period and inserting  
8           “such sums as may be necessary for fiscal year  
9           2006 and each of the 5 succeeding fiscal  
10          years.”; and

11          (B) by striking the fourth sentence; and

12          (7) in subsection (h) (as redesignated by para-  
13          graph (4))—

14          (A) by redesignating paragraphs (1)  
15          through (4) as paragraphs (3) through (6), re-  
16          spectively;

17          (B) by inserting before paragraph (3) (as  
18          redesignated by subparagraph (A)) the fol-  
19          lowing:

20          “(1) DIFFERENT CAMPUS.—The term ‘different  
21          campus’ means a site of an institution of higher edu-  
22          cation that—

23                 “(A) is geographically apart from the main  
24                 campus of the institution;

25                 “(B) is permanent in nature; and

1           “(C) offers courses in educational pro-  
2           grams leading to a degree, certificate, or other  
3           recognized educational credential.

4           “(2) DIFFERENT POPULATION.—The term ‘dif-  
5           ferent population’ means a group of individuals, with  
6           respect to whom an eligible entity desires to serve  
7           through an application for a grant under this chap-  
8           ter, that—

9           “(A) is separate and distinct from any  
10          other population that the entity has applied for  
11          a grant under this chapter to serve; or

12          “(B) while sharing some of the same needs  
13          as another population that the eligible entity  
14          has applied for a grant under this chapter to  
15          serve, has distinct needs for specialized serv-  
16          ices.”;

17          (C) in paragraph (5) (as redesignated by  
18          subparagraph (A))—

19                 (i) in subparagraph (A), by striking  
20                 “or” after the semicolon;

21                 (ii) in subparagraph (B), by striking  
22                 the period at the end and inserting “; or”;  
23                 and

24                 (iii) by adding at the end the fol-  
25                 lowing:

1           “(C) was a member of a reserve component  
2 of the Armed Forces called to active duty for a  
3 period of more than 180 days.”; and

4           (D) in paragraph (6), by striking “sub-  
5 paragraph (A) or (B) of paragraph (3)” and in-  
6 serting “subparagraph (A), (B), or (C) of para-  
7 graph (5)”.

8       (b) TALENT SEARCH.—Section 402B (20 U.S.C.  
9 1070a–12) is amended—

10       (1) in subsection (a)—

11           (A) in paragraph (1), by striking “to iden-  
12 tify qualified youths with potential for edu-  
13 cation at the postsecondary level and to encour-  
14 age such youths” and inserting “to encourage  
15 eligible youths”;

16           (B) in paragraph (2), by inserting “, and  
17 facilitate the application for,” after “the avail-  
18 ability of”; and

19           (C) in paragraph (3), by striking “, but  
20 who have the ability to complete such programs,  
21 to reenter” and inserting “to enter or reenter,  
22 and complete”;

23       (2) by redesignating subsection (c) as sub-  
24 section (d);

1           (3) by striking subsection (b) and inserting the  
2 following:

3           “(b) REQUIRED SERVICES.—Any project assisted  
4 under this section shall provide—

5           “(1) academic tutoring, or connections to high  
6 quality academic tutoring services, to enable stu-  
7 dents to complete secondary or postsecondary  
8 courses, which may include instruction in reading,  
9 writing, study skills, mathematics, science, and other  
10 subjects;

11           “(2) advice and assistance in secondary course  
12 selection and, if applicable, initial postsecondary  
13 course selection;

14           “(3) assistance in preparing for college entrance  
15 examinations and completing college admission ap-  
16 plications;

17           “(4)(A) information on both the full range of  
18 Federal student financial aid programs (including  
19 Federal Pell Grant awards and loan forgiveness) and  
20 resources for locating public and private scholar-  
21 ships; and

22           “(B) assistance in completing financial aid ap-  
23 plications, including the Free Application for Fed-  
24 eral Student Aid described in section 483(a);

25           “(5) guidance on and assistance in—

1           “(A) secondary school reentry;

2           “(B) alternative education programs for  
3 secondary school dropouts that lead to the re-  
4 ceipt of a regular secondary school diploma;

5           “(C) entry into general educational devel-  
6 opment (GED) programs; or

7           “(D) postsecondary education; and

8           “(6) education or counseling services designed  
9 to improve the financial literacy and economic lit-  
10 eracy of students or their parents, including finan-  
11 cial planning for postsecondary education.

12       “(c) PERMISSIBLE SERVICES.—Any project assisted  
13 under this section may provide services such as—

14           “(1) personal and career counseling or activi-  
15 ties;

16           “(2) information and activities designed to ac-  
17 quaint youths with the range of career options avail-  
18 able to the youths;

19           “(3) exposure to the campuses of institutions of  
20 higher education, as well as cultural events, aca-  
21 demic programs, and other sites or activities not  
22 usually available to disadvantaged youth;

23           “(4) workshops and counseling for families of  
24 students served;

1           “(5) mentoring programs involving elementary  
2           or secondary school teachers or counselors, faculty  
3           members at institutions of higher education, stu-  
4           dents, or any combination of such persons; and

5           “(6) programs and activities as described in  
6           subsection (b) or paragraphs (1) through (5) of this  
7           subsection that are specially designed for students  
8           who are limited English proficient, students with  
9           disabilities, students who are homeless children and  
10          youths (as such term is defined in section 725 of the  
11          McKinney-Vento Homeless Assistance Act (42  
12          U.S.C. 11434a)), or students who are in foster care  
13          or are aging out of the foster care system.”; and

14          (4) in the matter preceding paragraph (1) of  
15          subsection (d) (as redesignated by paragraph (2)),  
16          by striking “talent search projects under this chap-  
17          ter” and inserting “projects under this section”.

18          (c) UPWARD BOUND.—Section 402C (20 U.S.C.  
19 1070a–13) is amended—

20                 (1) by striking subsection (b) and inserting the  
21                 following:

22                 “(b) REQUIRED SERVICES.—Any project assisted  
23                 under this section shall provide—

24                         “(1) academic tutoring to enable students to  
25                         complete secondary or postsecondary courses, which

1 may include instruction in reading, writing, study  
2 skills, mathematics, science, and other subjects;

3 “(2) advice and assistance in secondary and  
4 postsecondary course selection;

5 “(3) assistance in preparing for college entrance  
6 examinations and completing college admission ap-  
7 plications;

8 “(4)(A) information on both the full range of  
9 Federal student financial aid programs (including  
10 Federal Pell Grant awards and loan forgiveness) and  
11 resources for locating public and private scholar-  
12 ships; and

13 “(B) assistance in completing financial aid ap-  
14 plications, including the Free Application for Fed-  
15 eral Student Aid described in section 483(a);

16 “(5) guidance on and assistance in—

17 “(A) secondary school reentry;

18 “(B) alternative education programs for  
19 secondary school dropouts that lead to the re-  
20 ceipt of a regular secondary school diploma;

21 “(C) entry into general educational devel-  
22 opment (GED) programs; or

23 “(D) postsecondary education; and

24 “(6) education or counseling services designed  
25 to improve the financial literacy and economic lit-

1 eracy of students, including financial planning for  
2 postsecondary education.”;

3 (2) in subsection (c)—

4 (A) in the subsection heading, by striking  
5 “REQUIRED SERVICES” and inserting “ADDI-  
6 TIONAL REQUIRED SERVICES FOR MULTIPLE-  
7 YEAR GRANT RECIPIENTS”; and

8 (B) by striking “upward bound project as-  
9 sisted under this chapter” and inserting  
10 “project assisted under this section”;

11 (3) by redesignating subsections (d) and (e) as  
12 subsections (e) and (f), respectively;

13 (4) by inserting after subsection (c) the fol-  
14 lowing:

15 “(d) PERMISSIBLE SERVICES.—Any project assisted  
16 under this section may provide such services as—

17 “(1) exposure to cultural events, academic pro-  
18 grams, and other activities not usually available to  
19 disadvantaged youth;

20 “(2) information, activities and instruction de-  
21 signed to acquaint youths participating in the  
22 project with the range of career options available to  
23 the youths;

24 “(3) on-campus residential programs;

1           “(4) mentoring programs involving elementary  
2 school or secondary school teachers or counselors,  
3 faculty members at institutions of higher education,  
4 students, or any combination of such persons;

5           “(5) work-study positions where youth partici-  
6 pating in the project are exposed to careers requir-  
7 ing a postsecondary degree;

8           “(6) special services to enable veterans to make  
9 the transition to postsecondary education; and

10          “(7) programs and activities as described in  
11 subsection (b), subsection (c), or paragraphs (1)  
12 through (6) of this subsection that are specially de-  
13 signed for students who are limited English pro-  
14 ficient, students with disabilities, students who are  
15 homeless children and youths (as such term is de-  
16 fined in section 725 of the McKinney-Vento Home-  
17 less Assistance Act (42 U.S.C. 11434a)), or students  
18 who are in foster care or are aging out of the foster  
19 care system.”;

20          (5) in the matter preceding paragraph (1) of  
21 subsection (e) (as redesignated by paragraph (3)),  
22 by striking “upward bound projects under this chap-  
23 ter” and inserting “projects under this section”; and

24          (6) in subsection (f) (as redesignated by para-  
25 graph (3))—

1 (A) by striking “during June, July, and  
2 August” each place the term occurs and insert-  
3 ing “during the summer school recess, for a pe-  
4 riod not to exceed 3 months”; and

5 (B) by striking “(b)(10)” and inserting  
6 “(d)(5)”.

7 (d) STUDENT SUPPORT SERVICES.—Section 402D  
8 (20 U.S.C. 1070a–14) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2), by striking “and”  
11 after the semicolon;

12 (B) by striking paragraph (3) and insert-  
13 ing the following:

14 “(3) to foster an institutional climate sup-  
15 portive of the success of low-income and first gen-  
16 eration college students, students with disabilities,  
17 students who are limited English proficient, students  
18 who are homeless children and youths (as such term  
19 is defined in section 725 of the McKinney-Vento  
20 Homeless Assistance Act (42 U.S.C. 11434a)), and  
21 students who are in foster care or are aging out of  
22 the foster care system.”; and

23 (C) by adding at the end the following:

24 “(4) to improve the financial literacy and eco-  
25 nomic literacy of students, including—

1           “(A) basic personal income, household  
2           money management, and financial planning  
3           skills; and

4           “(B) basic economic decisionmaking  
5           skills.”;

6           (2) by redesignating subsections (c) and (d) as  
7           subsections (d) and (e);

8           (3) by striking subsection (b) and inserting the  
9           following:

10          “(b) REQUIRED SERVICES.—A project assisted under  
11 this section shall provide—

12           “(1) academic tutoring to enable students to  
13           complete postsecondary courses, which may include  
14           instruction in reading, writing, study skills, mathe-  
15           matics, science, and other subjects;

16           “(2) advice and assistance in postsecondary  
17           course selection;

18           “(3)(A) information on both the full range of  
19           Federal student financial aid programs (including  
20           Federal Pell Grant awards and loan forgiveness) and  
21           resources for locating public and private scholar-  
22           ships; and

23           “(B) assistance in completing financial aid ap-  
24           plications, including the Free Application for Fed-  
25           eral Student Aid described in section 483(a);

1           “(4) education or counseling services designed  
2 to improve the financial literacy and economic lit-  
3 eracy of students, including financial planning for  
4 postsecondary education;

5           “(5) activities designed to assist students par-  
6 ticipating in the project in securing college admis-  
7 sion and financial assistance for enrollment in grad-  
8 uate and professional programs; and

9           “(6) activities designed to assist students en-  
10 rolled in 2-year institutions of higher education in  
11 securing admission and financial assistance for en-  
12 rollment in a 4-year program of postsecondary edu-  
13 cation.

14       “(c) PERMISSIBLE SERVICES.—A project assisted  
15 under this section may provide services such as—

16           “(1) consistent, individualized personal, career,  
17 and academic counseling, provided by assigned coun-  
18 selors;

19           “(2) information, activities, and instruction de-  
20 signed to acquaint youths participating in the  
21 project with the range of career options available to  
22 the students;

23           “(3) exposure to cultural events and academic  
24 programs not usually available to disadvantaged stu-  
25 dents;

1           “(4) activities designed to acquaint students  
2 participating in the project with the range of career  
3 options available to the students;

4           “(5) mentoring programs involving faculty or  
5 upper class students, or a combination thereof;

6           “(6) securing temporary housing during breaks  
7 in the academic year for students who are homeless  
8 children and youths (as such term is defined in sec-  
9 tion 725 of the McKinney-Vento Homeless Assist-  
10 ance Act (42 U.S.C. 11434a)) or were formerly  
11 homeless children and youths and students who are  
12 in foster care or are aging out of the foster care sys-  
13 tem; and

14           “(7) programs and activities as described in  
15 subsection (b) or paragraphs (1) through (5) of this  
16 subsection that are specially designed for students  
17 who are limited English proficient, students with  
18 disabilities, students who are homeless children and  
19 youths (as such term is defined in section 725 of the  
20 McKinney-Vento Homeless Assistance Act (42  
21 U.S.C. 11434a)) or were formerly homeless children  
22 and youths, or students who are in foster care or are  
23 aging out of the foster care system.”;

1 (4) in subsection (d)(1) (as redesignated by  
2 paragraph (2)), by striking “subsection (b)” and in-  
3 serting “subsection (c)”; and

4 (5) in the matter preceding paragraph (1) of  
5 subsection (e) (as redesignated by paragraph (2)),  
6 by striking “student support services projects under  
7 this chapter” and inserting “projects under this sec-  
8 tion”.

9 (e) POSTBACCALAUREATE ACHIEVEMENT PROGRAM  
10 AUTHORITY.—Section 402E (20 U.S.C. 1070a–15) is  
11 amended—

12 (1) in subsection (b)—

13 (A) in the subsection heading, by inserting  
14 “REQUIRED” before “SERVICES”;

15 (B) in the matter preceding paragraph (1),  
16 by striking “A postbaccalaureate achievement  
17 project assisted under this section may provide  
18 services such as—” and inserting “A project as-  
19 sisted under this section shall provide—”;

20 (C) in paragraph (5), by inserting “and”  
21 after the semicolon;

22 (D) in paragraph (6), by striking the semi-  
23 colon and inserting a period; and

24 (E) by striking paragraphs (7) and (8);

1           (2) by redesignating subsections (c) through (f)  
2 as subsections (d) through (g), respectively;

3           (3) by inserting after subsection (b) the fol-  
4 lowing:

5           “(c) PERMISSIBLE SERVICES.—A project assisted  
6 under this section may provide services such as—

7           “(1) education or counseling services designed  
8 to improve the financial literacy and economic lit-  
9 eracy of students or their parents, including finan-  
10 cial planning for postsecondary education;

11           “(2) mentoring programs involving faculty  
12 members at institutions of higher education, stu-  
13 dents, or any combination of such persons; and

14           “(3) exposure to cultural events and academic  
15 programs not usually available to disadvantaged stu-  
16 dents.”;

17           (4) in the matter preceding paragraph (1) of  
18 subsection (d) (as redesignated by paragraph (2)),  
19 by striking “postbaccalaureate achievement”;

20           (5) in the matter preceding paragraph (1) of  
21 subsection (f) (as redesignated by paragraph (2)), by  
22 striking “postbaccalaureate achievement project”  
23 and inserting “project under this section”; and

24           (6) in subsection (g) (as redesignated by para-  
25 graph (2))—

1 (A) by striking “402A(f)” and inserting  
2 “402A(g)”;

3 (B) by striking “1993 through 1997” and  
4 inserting “2006 through 2010”.

5 (f) EDUCATIONAL OPPORTUNITY CENTERS.—Section  
6 402F (20 U.S.C. 1070a–16) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1), by striking “and”  
9 after the semicolon;

10 (B) in paragraph (2), by striking the pe-  
11 riod at the end and inserting “; and”;

12 (C) by adding at the end the following:

13 “(3) to improve the financial literacy and eco-  
14 nomic literacy of students, including—

15 “(A) basic personal income, household  
16 money management, and financial planning  
17 skills; and

18 “(B) basic economic decisionmaking  
19 skills.”;

20 (2) in subsection (b)—

21 (A) by redesignating paragraphs (5)  
22 through (10) as paragraphs (6) through (11),  
23 respectively;

24 (B) by inserting after paragraph (4) the  
25 following:

1 “(5) education or counseling services designed  
2 to improve the financial literacy and economic lit-  
3 eracy of students;”;

4 (C) by striking paragraph (7) (as redesign-  
5 nated by subparagraph (A)) and inserting the  
6 following:

7 “(7) individualized personal, career, and aca-  
8 demic counseling;” and

9 (D) by striking paragraph (11) (as redesign-  
10 nated by subparagraph (A)) and inserting the  
11 following:

12 “(11) programs and activities as described in  
13 paragraphs (1) through (10) that are specially de-  
14 signed for students who are limited English pro-  
15 ficient, students with disabilities, or students who  
16 are homeless children and youths (as such term is  
17 defined in section 725 of the McKinney-Vento  
18 Homeless Assistance Act (42 U.S.C. 11434a)), or  
19 programs and activities for students who are in fos-  
20 ter care or are aging out of the foster care system.”.

21 (g) STAFF DEVELOPMENT ACTIVITIES.—Section  
22 402G(b)(3) (20 U.S.C. 1070a–17(b)(3)) is amended by in-  
23 serting “, including strategies for recruiting and serving  
24 students who are homeless children and youths (as such  
25 term is defined in section 725 of the McKinney-Vento

1 Homeless Assistance Act (42 U.S.C. 11434a)) and stu-  
2 dents who are in foster care or are aging out of the foster  
3 care system” before the period at the end.

4 (h) REPORTS, EVALUATIONS, AND GRANTS FOR  
5 PROJECT IMPROVEMENT AND DISSEMINATION.—Section  
6 402H (20 U.S.C. 1070a–18) is amended—

7 (1) by striking the section heading and insert-  
8 ing “**REPORTS, EVALUATIONS, AND GRANTS**  
9 **FOR PROJECT IMPROVEMENT AND DISSEMINA-**  
10 **TION.**”;

11 (2) by redesignating subsections (a) through (c)  
12 as subsections (b) through (d), respectively; and

13 (3) by inserting before subsection (b) (as redesi-  
14 gnated by paragraph (2)) the following:

15 “(a) REPORT TO CONGRESS.—At least once every 2-  
16 year period, the Secretary shall prepare and submit to  
17 Congress a report on the outcomes achieved by the pro-  
18 grams authorized under this chapter. Such report shall in-  
19 clude a statement for the preceding fiscal year  
20 specifying—

21 “(1) the number of grants awarded during each  
22 fiscal year, and the number of individuals served by  
23 the programs carried out under such grants;

1           “(2) the number of entities that received grants  
2 during the fiscal year, including the number of enti-  
3 ties that—

4                   “(A) received a grant to carry out a pro-  
5 gram under this chapter for the fiscal year; and

6                   “(B) had not received funding for that  
7 particular program during the previous grant  
8 cycle;

9           “(3) a comparison of the number and percent-  
10 age of grant awards made to entities described in  
11 paragraph (2), with the number of such entities  
12 funded through discretionary grant competitions  
13 conducted by the Secretary under this chapter in the  
14 3 grant cycles preceding the fiscal year;

15           “(4) information on the number of individuals  
16 served in each program authorized under this chap-  
17 ter; and

18           “(5) information on the outcomes achieved by  
19 each program authorized under this chapter, includ-  
20 ing the outcome criteria described in section 402A(f)  
21 for each program.”.

1 **SEC. 7363. GAINING EARLY AWARENESS AND READINESS**  
2 **FOR UNDERGRADUATE PROGRAMS.**

3 (a) EARLY INTERVENTION AND COLLEGE AWARE-  
4 NESS PROGRAM AUTHORIZED.—Section 404A (20 U.S.C.  
5 1070a–21) is amended—

6 (1) by striking subsection (a) and inserting the  
7 following:

8 “(a) PROGRAM AUTHORIZED.—The Secretary is au-  
9 thorized, in accordance with the requirements of this chap-  
10 ter, to establish a program that encourages eligible entities  
11 to provide support to eligible low-income students to assist  
12 the students in obtaining a secondary school diploma (or  
13 its recognized equivalent) and to prepare for and succeed  
14 in postsecondary education, by providing—

15 “(1) financial assistance, academic support, ad-  
16 ditional counseling, mentoring, outreach, and sup-  
17 portive services to middle school and secondary  
18 school students to reduce—

19 “(A) the risk of such students dropping  
20 out of school; or

21 “(B) the need for remedial education for  
22 such students at the postsecondary level; and

23 “(2) information to students and their parents  
24 about the advantages of obtaining a postsecondary  
25 education and the college financing options for the  
26 students and their parents.”;

1           (2) by striking subsection (b)(2)(A) and insert-  
2           ing the following:

3                   “(A) give priority to eligible entities that  
4           have a prior, demonstrated commitment to  
5           early intervention leading to college access  
6           through collaboration and replication of suc-  
7           cessful strategies;” and

8           (3) by striking subsection (c)(2) and inserting  
9           the following:

10                   “(2) a partnership—

11                           “(A) consisting of—

12                                   “(i) 1 or more local educational agen-  
13                                   cies; and

14                                   “(ii) 1 or more degree granting insti-  
15                                   tutions of higher education; and

16                           “(B) which may include not less than 2  
17           other community organizations or entities, such  
18           as businesses, professional organizations, State  
19           agencies, institutions or agencies sponsoring  
20           programs authorized under subpart 4, or other  
21           public or private agencies or organizations.”.

22           (b) REQUIREMENTS.—Section 404B (20 U.S.C.  
23 1070a–22) is amended—

24                   (1) by striking subsection (a) and inserting the  
25           following:—

1       “(a) FUNDING RULES.—

2               “(1) DISTRIBUTION.—In awarding grants from  
3       the amount appropriated under section 404G for a  
4       fiscal year, the Secretary shall take into  
5       consideration—

6               “(A) the geographic distribution of such  
7       awards; and

8               “(B) the distribution of such awards be-  
9       tween urban and rural applicants.

10              “(2) SPECIAL RULE.—The Secretary shall an-  
11       nually reevaluate the distribution of funds described  
12       in paragraph (1) based on number, quality, and  
13       promise of the applications.”;

14              (2) by striking subsections (b), (e), and (f);

15              (3) by redesignating subsections (c), (d), and  
16       (g) as subsections (b), (c), and (d), respectively; and

17              (4) by adding at the end the following:

18              “(e) SUPPLEMENT, NOT SUPPLANT.—Grant funds  
19       awarded under this chapter shall be used to supplement,  
20       and not supplant, other Federal, State, and local funds  
21       that would otherwise be expended to carry out activities  
22       assisted under this chapter.”.

23              (c) APPLICATION.—Section 404C (20 U.S.C. 1070a–  
24       23) is amended—

1 (1) in the section heading, by striking “**ELIGI-**  
2 **BLE ENTITY PLANS**” and inserting “**APPLICA-**  
3 **TIONS**”;

4 (2) in subsection (a)—

5 (A) in the subsection heading, by striking  
6 “PLAN” and inserting “APPLICATION”;

7 (B) in paragraph (1)—

8 (i) by striking “a plan” and inserting  
9 “an application”; and

10 (ii) by striking the second sentence;

11 and

12 (C) by striking paragraph (2) and insert-  
13 ing the following:

14 “(2) CONTENTS.—Each application submitted  
15 pursuant to paragraph (1) shall be in such form,  
16 contain or be accompanied by such information or  
17 assurances, and be submitted at such time as the  
18 Secretary may require. Each such application shall,  
19 at a minimum—

20 “(A) describe the activities for which as-  
21 sistance under this chapter is sought, including  
22 how the eligible entity will carry out the re-  
23 quired activities described in section 404D(a);

24 “(B) describe how the eligible agency will  
25 meet the requirements of section 404E;

1           “(C) provide assurances that adequate ad-  
2 ministrative and support staff will be respon-  
3 sible for coordinating the activities described in  
4 section 404D;

5           “(D) ensure that activities assisted under  
6 this chapter will not displace an employee or  
7 eliminate a position at a school assisted under  
8 this chapter, including a partial displacement  
9 such as a reduction in hours, wages or employ-  
10 ment benefits;

11           “(E) describe, in the case of an eligible en-  
12 tity described in section 404A(c)(2), how the el-  
13 igible entity will define the cohorts of the stu-  
14 dents served by the eligible entity pursuant to  
15 section 404B(d), and how the eligible entity will  
16 serve the cohort through grade 12, including—

17                   “(i) how vacancies in the program  
18                   under this chapter will be filled; and

19                   “(ii) how the eligible entity will serve  
20                   students attending different secondary  
21                   schools;

22           “(F) describe how the eligible entity will  
23           coordinate programs with other existing Fed-  
24           eral, State, or local programs to avoid duplica-

1           tion and maximize the number of students  
2           served;

3           “(G) provide such additional assurances as  
4           the Secretary determines necessary to ensure  
5           compliance with the requirements of this chap-  
6           ter; and

7           “(H) provide information about the activi-  
8           ties that will be carried out by the eligible enti-  
9           ty to support systemic changes from which fu-  
10          ture cohorts of students will benefit.”;

11          (3) in the matter preceding subparagraph (A)  
12          of subsection (b)(1)—

13                 (A) by striking “a plan” and inserting “an  
14                 application”; and

15                 (B) by striking “such plan” and inserting  
16                 “such application”; and

17          (4) in subsection (c)(1), by striking the semi-  
18          colon at the end and inserting “including—

19                 “(A) the amount contributed to a student  
20                 scholarship fund established under section  
21                 404E; and

22                 “(B) the amount of the costs of admin-  
23                 istering the scholarship program under section  
24                 404E;”.

1 (d) ACTIVITIES.—Section 404D (20 U.S.C. 1070a–  
2 24) is amended to read as follows:

3 **“SEC. 404D. ACTIVITIES.**

4 “(a) REQUIRED ACTIVITIES.—Each eligible entity re-  
5 ceiving a grant under this chapter shall carry out the fol-  
6 lowing:

7 “(1) Provide information regarding financial  
8 aid for postsecondary education to participating stu-  
9 dents in the cohort described in subsection  
10 404B(d)(1)(A).

11 “(2) Encourage student enrollment in rigorous  
12 and challenging curricula and coursework, in order  
13 to reduce the need for remedial coursework at the  
14 postsecondary level.

15 “(3) Support activities designed to improve the  
16 number of participating students who—

17 “(A) obtain a secondary school diploma;  
18 and

19 “(B) complete applications for and enroll  
20 in a program of postsecondary education.

21 “(4) In the case of an eligible entity described  
22 in section 404A(c)(1), provide for the scholarships  
23 described in section 404E.

24 “(b) OPTIONAL ACTIVITIES FOR STATES AND PART-  
25 NERSHIPS.—An eligible entity that receives a grant under

1 this chapter may use grant funds to carry out 1 or more  
2 of the following activities:

3           “(1) Providing tutoring and supporting men-  
4           tors, including adults or former participants of a  
5           program under this chapter, for eligible students.

6           “(2) Conducting outreach activities to recruit  
7           priority students described in subsection (d) to par-  
8           ticipate in program activities.

9           “(3) Providing supportive services to eligible  
10          students.

11          “(4) Supporting the development or implemen-  
12          tation of rigorous academic curricula, which may in-  
13          clude college preparatory, Advanced Placement, or  
14          International Baccalaureate programs, and providing  
15          participating students access to rigorous core  
16          courses that reflect challenging State academic  
17          standards.

18          “(5) Supporting dual or concurrent enrollment  
19          programs between the secondary school and institu-  
20          tion of higher education partners of an eligible entity  
21          described in section 404A(c)(2), and other activities  
22          that support participating students in—

23                  “(A) meeting challenging academic stand-  
24                  ards;

1           “(B) successfully applying for postsec-  
2           ondary education;

3           “(C) successfully applying for student fi-  
4           nancial aid; and

5           “(D) developing graduation and career  
6           plans.

7           “(6) Providing support for scholarships de-  
8           scribed in section 404E.

9           “(7) Introducing eligible students to institutions  
10          of higher education, through trips and school-based  
11          sessions.

12          “(8) Providing an intensive extended school  
13          day, school year, or summer program that offers—

14               “(A) additional academic classes; or

15               “(B) assistance with college admission ap-  
16               plications.

17          “(9) Providing other activities designed to en-  
18          sure secondary school completion and postsecondary  
19          education enrollment of at-risk children, such as—

20               “(A) the identification of at-risk children;

21               “(B) after-school and summer tutoring;

22               “(C) assistance to at-risk children in ob-  
23               taining summer jobs;

24               “(D) academic counseling;

25               “(E) volunteer and parent involvement;

1           “(F) encouraging former or current par-  
2           ticipants of a program under this chapter to  
3           serve as peer counselors;

4           “(G) skills assessments;

5           “(H) personal counseling;

6           “(I) family counseling and home visits;

7           “(J) staff development; and

8           “(K) programs and activities described in  
9           this subsection that are specially designed for  
10          students who are limited English proficient.

11          “(10) Enabling eligible students to enroll in Ad-  
12          vanced Placement or International Baccalaureate  
13          courses, or college entrance examination preparation  
14          courses.

15          “(11) Providing services to eligible students in  
16          the participating cohort described in section  
17          404B(d)(1)(A), through the first year of attendance  
18          at an institution of higher education.

19          “(c) **ADDITIONAL OPTIONAL ACTIVITIES FOR**  
20          **STATES.**—In addition to the required activities described  
21          in subsection (a) and the optional activities described in  
22          subsection (b), an eligible entity described in section  
23          404A(c)(1) receiving funds under this chapter may use  
24          grant funds to carry out 1 or more of the following activi-  
25          ties:

1           “(1) Providing technical assistance to—

2                   “(A) middle schools or secondary schools  
3           that are located within the State; or

4                   “(B) partnerships described in section  
5           404A(c)(2) that are located within the State.

6           “(2) Providing professional development oppor-  
7           tunities to individuals working with eligible cohorts  
8           of students described in section 404B(d)(1)(A).

9           “(3) Providing strategies and activities that  
10           align efforts in the State to prepare eligible students  
11           for attending and succeeding in postsecondary edu-  
12           cation, which may include the development of grad-  
13           uation and career plans.

14           “(4) Disseminating information on the use of  
15           scientifically based research and best practices to  
16           improve services for eligible students.

17           “(5)(A) Disseminating information on effective  
18           coursework and support services that assist students  
19           in obtaining the goals described in subparagraph  
20           (B)(ii).

21           “(B) Identifying and disseminating information  
22           on best practices with respect to—

23                   “(i) increasing parental involvement; and

24                   “(ii) preparing students, including students  
25           with disabilities and students who are limited

1 English proficient, to succeed academically in,  
2 and prepare financially for, postsecondary edu-  
3 cation.

4 “(6) Working to align State academic standards  
5 and curricula with the expectations of postsecondary  
6 institutions and employers.

7 “(7) Developing alternatives to traditional sec-  
8 ondary school that give students a head start on at-  
9 taining a recognized postsecondary credential (in-  
10 cluding an industry certificate, an apprenticeship, or  
11 an associate’s or a bachelor’s degree), including  
12 school designs that give students early exposure to  
13 college-level courses and experiences and allow stu-  
14 dents to earn transferable college credits or an asso-  
15 ciate’s degree at the same time as a secondary  
16 school diploma.

17 “(8) Creating community college programs for  
18 drop-outs that are personalized drop-out recovery  
19 programs that allow drop-outs to complete a regular  
20 secondary school diploma and begin college-level  
21 work.

22 “(d) PRIORITY STUDENTS.—For eligible entities not  
23 using a cohort approach, the eligible entity shall treat as  
24 priority students any student in middle or secondary  
25 school who is eligible—

1           “(1) to be counted under section 1124(c) of the  
2       Elementary and Secondary Education Act of 1965;

3           “(2) for free or reduced price meals under the  
4       Richard B. Russell National School Lunch Act;

5           “(3) for assistance under a State program  
6       funded under part A or E of title IV of the Social  
7       Security Act (42 U.S.C. 601 et seq., 670 et seq.);  
8       or

9           “(4) for assistance under subtitle B of title VII  
10      of the McKinney-Vento Homeless Assistance Act (42  
11      U.S.C. 11431 et seq.).

12      “(e) ALLOWABLE PROVIDERS.—In the case of eligible  
13      entities described in section 404A(c)(1), the activities re-  
14      quired by this section may be provided by service providers  
15      such as community-based organizations, schools, institu-  
16      tions of higher education, public and private agencies,  
17      nonprofit and philanthropic organizations, businesses, in-  
18      stitutions and agencies sponsoring programs authorized  
19      under subpart 4, and other organizations the State deter-  
20      mines appropriate.”.

21      (e) SCHOLARSHIP COMPONENT.—Section 404E (20  
22      U.S.C. 1070a–25) is amended—

23           (1) by striking subsections (e) and (f);

24           (2) by redesignating subsections (b), (c), and

25           (d) as subsections (d), (f), and (g), respectively;

1           (3) by inserting after subsection (a) the fol-  
2           lowing:

3           “(b) LIMITATION.—

4           “(1) IN GENERAL.—Subject to paragraph (2),  
5           each eligible entity described in section 404A(c)(1)  
6           that receives a grant under this chapter shall use  
7           not less than 25 percent and not more than 50 per-  
8           cent of the grant funds for activities described in  
9           section 404D(c), with the remainder of such funds  
10          to be used for a scholarship program under this sec-  
11          tion.

12          “(2) EXCEPTION.—Notwithstanding paragraph  
13          (1), the Secretary may allow an eligible entity to use  
14          more than 50 percent of grant funds received under  
15          this chapter for such activities, if the eligible entity  
16          demonstrates that the eligible entity has another  
17          means of providing the students with the financial  
18          assistance described in this section and describes  
19          such means in the application submitted under sec-  
20          tion 404C.

21          “(c) NOTIFICATION OF ELIGIBILITY.—Each eligible  
22          entity providing scholarships under this section shall pro-  
23          vide information on the eligibility requirements for the  
24          scholarships to all participating students upon the stu-

1 dents' entry into the programs assisted under this chap-  
2 ter.”;

3 (4) in subsection (d) (as redesignated by para-  
4 graph (2)), by striking “the lesser of” and all that  
5 follows through the period at the end of paragraph  
6 (2) and inserting “the minimum Federal Pell Grant  
7 award under section 401 for such award year.”;

8 (5) by inserting after subsection (d) (as redesign-  
9 nated by paragraph (2) and amended by paragraph  
10 (4)) the following:

11 “(e) PORTABILITY OF ASSISTANCE.—

12 “(1) IN GENERAL.—Each eligible entity de-  
13 scribed in section 404A(c)(1) that receives a grant  
14 under this chapter shall create or organize a trust  
15 for each cohort described in section 404B(d)(1)(A)  
16 for which the grant is sought in the application sub-  
17 mitted by the entity, which trust shall be an amount  
18 that is not less than the minimum scholarship  
19 amount described in subsection (d), multiplied by  
20 the number of students participating in the cohort.

21 “(2) REQUIREMENT FOR PORTABILITY.—Funds  
22 contributed to the trust for a cohort shall be avail-  
23 able to a student in the cohort when the student  
24 has—

1           “(A) completed a secondary school di-  
2           ploma, its recognized equivalent, or other recog-  
3           nized alternative standard for individuals with  
4           disabilities; and

5           “(B) enrolled in an institution of higher  
6           education.

7           “(3) QUALIFIED EDUCATIONAL EXPENSES.—  
8           Funds available to an eligible student from a trust  
9           may be used for—

10           “(A) tuition, fees, books, supplies, and  
11           equipment required for the enrollment or at-  
12           tendance of the eligible student at an institution  
13           of higher education; and

14           “(B) in the case of an eligible student with  
15           special needs, expenses for special needs serv-  
16           ices which are incurred in connection with such  
17           enrollment or attendance.

18           “(4) RETURN OF FUNDS.—

19           “(A) REDISTRIBUTION.—

20           “(i) IN GENERAL.—Trust funds that  
21           are not used by an eligible student within  
22           6 years of the student’s scheduled comple-  
23           tion of secondary school may be redistrib-  
24           uted by the eligible entity to other eligible  
25           students.

1                   “(ii) RETURN OF EXCESS TO THE  
2                   SECRETARY.—If, after meeting the require-  
3                   ments of paragraph (1) and, if applicable,  
4                   redistributing excess funds in accordance  
5                   with clause (i), an eligible entity has funds  
6                   remaining, the eligible entity shall return  
7                   excess funds to the Secretary for distribu-  
8                   tion to other grantees under this chapter.

9                   “(B) NONPARTICIPATING ENTITY.—Not-  
10                  withstanding subparagraph (A), in the case of  
11                  an eligible entity described in section  
12                  404A(c)(1)(A) that does not receive assistance  
13                  under this subpart for 6 fiscal years, the eligi-  
14                  ble entity shall return any trust funds not  
15                  awarded or obligated to eligible students to the  
16                  Secretary for distribution to other grantees  
17                  under this chapter.”; and

18                  (6) in subsection (g) (as redesignated by para-  
19                  graph (2))—

20                         (A) in paragraph (2), by striking “1993”  
21                         and inserting “2000”; and

22                         (B) in paragraph (4), by striking “early  
23                         intervention component required under section  
24                         404D” and inserting “activities required under  
25                         section 404D(a)”.

1 (f) REPEAL OF 21ST CENTURY SCHOLAR CERTIFI-  
2 CATES.—Chapter 2 of subpart 2 of part A of title IV (20  
3 U.S.C. 1070a–21 et seq.) is further amended—

4 (1) by striking section 404F; and

5 (2) by redesignating sections 404G and 404H  
6 as sections 404F and 404G, respectively.

7 (g) AUTHORIZATION OF APPROPRIATIONS.—Section  
8 404G (as redesignated by subsection (f)) (20 U.S.C.  
9 1070a–28) is amended by striking “\$200,000,000 for fis-  
10 cal year 1999” and all that follows through the period and  
11 inserting “such sums as may be necessary for fiscal year  
12 2006 and each of the 5 succeeding fiscal years.”.

13 (h) CONFORMING AMENDMENTS.—Chapter 2 of sub-  
14 part 2 of part A of title IV (20 U.S.C. 1070a–21 et seq.)  
15 is further amended—

16 (1) in section 404A(b)(1), by striking “404H”  
17 and inserting “404G”;

18 (2) in section 404B(a)(1), by striking “404H”  
19 and inserting “404G”; and

20 (3) in section 404F(e) (as redesignated by sub-  
21 section (f)(2)), by striking “404H” and inserting  
22 “404G”.

1 **SEC. 7364. ACADEMIC ACHIEVEMENT INCENTIVE SCHOLAR-**  
 2 **SHIPS.**

3 Chapter 3 of subpart 2 of part A of title IV (20  
 4 U.S.C. 1070a–31 et seq.) is repealed.

5 **SEC. 7365. FEDERAL SUPPLEMENTAL EDUCATIONAL OP-**  
 6 **PORTUNITY GRANTS.**

7 (a) **APPROPRIATIONS AUTHORIZED.**—Section  
 8 413A(b)(1) (20 U.S.C. 1070b(b)(1)) is amended by strik-  
 9 ing “\$675,000,000 for fiscal year 1999” and all that fol-  
 10 lows through the period and inserting “such sums as may  
 11 be necessary for fiscal year 2006 and each of the 5 suc-  
 12 ceeding fiscal years.”.

13 (b) **ALLOCATION OF FUNDS.**—

14 (1) **ALLOCATION OF FUNDS.**—Section 413D  
 15 (20 U.S.C. 1070b–3) is amended—

16 (A) by striking subsection (a)(4); and

17 (B) in subsection (c)(3)(D), by striking  
 18 “\$450” and inserting “\$600”.

19 (2) **TECHNICAL CORRECTION.**—Section  
 20 413D(a)(1) (20 U.S.C. 1070b–3(a)(1)) is amended  
 21 by striking “such institution” and all that follows  
 22 through the period and inserting “such institution  
 23 received under subsections (a) and (b) of this section  
 24 for fiscal year 1999 (as such subsections were in ef-  
 25 fect with respect to allocations for such fiscal  
 26 year).”.

1 **SEC. 7366. LEVERAGING EDUCATIONAL ASSISTANCE PART-**  
2 **nership Program.**

3 (a) APPROPRIATIONS AUTHORIZED.—Section  
4 415A(b)(1) (20 U.S.C. 1070c(b)(1)) is amended to read  
5 as follows:

6 “(1) IN GENERAL.—There are authorized to be  
7 appropriated to carry out this subpart such sums as  
8 may be necessary for fiscal year 2006 and each of  
9 the 5 succeeding fiscal years.”.

10 (b) APPLICATIONS.—Section 415C(b) (20 U.S.C.  
11 1070c–2(b)) is amended—

12 (1) in the matter preceding subparagraph (A)  
13 of paragraph (2), by striking “not in excess of  
14 \$5,000 per academic year” and inserting “not to ex-  
15 ceed the lesser of \$12,500 or the student’s cost of  
16 attendance per academic year”; and

17 (2) by striking paragraph (10) and inserting  
18 the following:

19 “(10) provides notification to eligible students  
20 that such grants are—

21 “(A) Leveraging Educational Assistance  
22 Partnership grants; and

23 “(B) funded by the Federal Government,  
24 the State, and other contributing partners.”.

1 (c) GRANTS FOR ACCESS AND PERSISTENCE.—Sec-  
2 tion 415E (20 U.S.C. 1070e–3a) is amended to read as  
3 follows:

4 **“SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.**

5 “(a) PURPOSE.—It is the purpose of this section to  
6 expand college access and increase college persistence by  
7 making allotments to States to enable the States to—

8 “(1) expand and enhance partnerships with in-  
9 stitutions of higher education, early information and  
10 intervention, mentoring, or outreach programs, pri-  
11 vate corporations, philanthropic organizations, and  
12 other interested parties in order to—

13 “(A) carry out activities under this section;  
14 and

15 “(B) provide coordination and cohesion  
16 among Federal, State, and local governmental  
17 and private efforts that provide financial assist-  
18 ance to help low-income students attend an in-  
19 stitution of higher education;

20 “(2) provide need-based grants for access and  
21 persistence to eligible low-income students;

22 “(3) provide early notification to low-income  
23 students of the students’ eligibility for financial aid;  
24 and

1           “(4) encourage increased participation in early  
2 information and intervention, mentoring, or outreach  
3 programs.

4           “(b) ALLOTMENTS TO STATES.—

5           “(1) IN GENERAL.—

6           “(A) AUTHORIZATION.—From sums re-  
7 served under section 415A(b)(2) for each fiscal  
8 year, the Secretary shall make an allotment to  
9 each State that submits an application for an  
10 allotment in accordance with subsection (c) to  
11 enable the State to pay the Federal share, as  
12 described in paragraph (2), of the cost of car-  
13 rying out the activities under subsection (d).

14           “(B) DETERMINATION OF ALLOTMENT.—

15 In making allotments under subparagraph (A),  
16 the Secretary shall consider the following:

17           “(i) CONTINUATION OF AWARD.—If a  
18 State continues to meet the specifications  
19 established in such State’s application  
20 under subsection (c), the Secretary shall  
21 make an allotment to such State that is  
22 not less than the allotment made to such  
23 State for the previous fiscal year.

24           “(ii) PRIORITY.—The Secretary shall  
25 give priority in making allotments to

1 States that meet the requirements de-  
2 scribed in paragraph (2)(A)(ii).

3 “(2) FEDERAL SHARE.—

4 “(A) IN GENERAL.—The Federal share  
5 under this section shall be determined in ac-  
6 cordance with the following:

7 “(i) If a State applies for an allot-  
8 ment under this section in partnership  
9 with—

10 “(I) any number of degree grant-  
11 ing institutions of higher education in  
12 the State whose combined full-time  
13 enrollment represents less than a ma-  
14 jority of all students attending institu-  
15 tions of higher education in the State;  
16 and

17 “(II)(aa) philanthropic organiza-  
18 tions that are located in, or that pro-  
19 vide funding in, the State; or

20 “(bb) private corporations that  
21 are located in, or that do business in,  
22 the State,

23 then the Federal share of the cost of car-  
24 rying out the activities under subsection  
25 (d) shall be equal to 50 percent.

1           “(ii) If a State applies for an allot-  
2           ment under this section in partnership  
3           with—

4                   “(I) any number of degree grant-  
5                   ing institutions of higher education in  
6                   the State whose combined full-time  
7                   enrollment represents a majority of all  
8                   students attending institutions of  
9                   higher education in the State; and

10                   “(II)(aa) philanthropic organiza-  
11                   tions that are located in, or that pro-  
12                   vide funding in, the State; or

13                   “(bb) private corporations that  
14                   are located in, or that do business in,  
15                   the State,

16           then the Federal share of the cost of car-  
17           rying out the activities under subsection  
18           (d) shall be equal to 57 percent.

19           “(B) NON-FEDERAL SHARE.—

20                   “(i) IN GENERAL.—The non-Federal  
21                   share under this section may be provided  
22                   in cash or in kind, fully evaluated and in  
23                   accordance with this subparagraph.

24                   “(ii) IN KIND CONTRIBUTION.—For  
25                   the purpose of calculating the non-Federal

1 share under this section, an in kind con-  
2 tribution is a non-cash award that has  
3 monetary value, such as provision of room  
4 and board and transportation passes, and  
5 that helps a student meet the cost of at-  
6 tendance.

7 “(iii) EFFECT ON NEED ANALYSIS.—

8 For the purpose of calculating a student’s  
9 need in accordance with part F of this  
10 title, an in-kind contribution described in  
11 clause (ii) shall not be considered an asset  
12 or income.

13 “(c) APPLICATION FOR ALLOTMENT.—

14 “(1) IN GENERAL.—

15 “(A) SUBMISSION.—A State that desires  
16 to receive an allotment under this section on be-  
17 half of a partnership described in paragraph (3)  
18 shall submit an application to the Secretary at  
19 such time, in such manner, and containing such  
20 information as the Secretary may require.

21 “(B) CONTENT.—An application submitted  
22 under subparagraph (A) shall include the fol-  
23 lowing:

24 “(i) A description of the State’s plan  
25 for using the allotted funds.

1           “(ii) Assurances that the State will  
2 provide the non-Federal share from State,  
3 institutional, philanthropic, or private  
4 funds, of not less than the required share  
5 of the cost of carrying out the activities  
6 under subsection (d), as determined under  
7 subsection (b), in accordance with the fol-  
8 lowing:

9           “(I) The State shall specify the  
10 methods by which non-Federal share  
11 funds will be paid and include provi-  
12 sions designed to ensure that funds  
13 provided under this section will be  
14 used to supplement, and not supplant,  
15 Federal and non-Federal funds avail-  
16 able for carrying out the activities  
17 under this title.

18           “(II) A State that uses non-Fed-  
19 eral funds to create or expand existing  
20 partnerships with nonprofit organiza-  
21 tions or community-based organiza-  
22 tions in which such organizations  
23 match State funds for student schol-  
24 arships, may apply such matching  
25 funds from such organizations toward

1                   fulfilling the State’s non-Federal  
2                   share obligation under this clause.

3                   “(iii) Assurances that early informa-  
4                   tion and intervention, mentoring, or out-  
5                   reach programs exist within the State or  
6                   that there is a plan to make such pro-  
7                   grams widely available.

8                   “(iv) A description of the organiza-  
9                   tional structure that the State has in place  
10                  to administer the activities under sub-  
11                  section (d), including a description of the  
12                  system the State will use to track the par-  
13                  ticipation of students who receive grants  
14                  under this section to degree completion.

15                  “(v) Assurances that the State has a  
16                  method in place, such as acceptance of the  
17                  automatic zero expected family contribu-  
18                  tion determination described in section  
19                  479, to identify eligible low-income stu-  
20                  dents and award State grant aid to such  
21                  students.

22                  “(vi) Assurances that the State will  
23                  provide notification to eligible low-income  
24                  students that grants under this section  
25                  are—

1                   “(I) Leveraging Educational As-  
2                   sistance Partnership Grants; and

3                   “(II) funded by the Federal Gov-  
4                   ernment, the State, and other contrib-  
5                   uting partners.

6                   “(2) STATE AGENCY.—The State agency that  
7                   submits an application for a State under section  
8                   415C(a) shall be the same State agency that sub-  
9                   mits an application under paragraph (1) for such  
10                  State.

11                  “(3) PARTNERSHIP.—In applying for an allot-  
12                  ment under this section, the State agency shall apply  
13                  for the allotment in partnership with—

14                         “(A) not less than 1 public and 1 private  
15                         degree granting institution of higher education  
16                         that are located in the State, if applicable;

17                         “(B) new or existing early information and  
18                         intervention, mentoring, or outreach programs  
19                         located in the State; and

20                         “(C) not less than 1—

21                                 “(i) philanthropic organization located  
22                                 in, or that provides funding in, the State;  
23                                 or

24                                 “(ii) private corporation located in, or  
25                                 that does business in, the State.

1           “(4) ROLES OF PARTNERS.—

2                   “(A) STATE AGENCY.—A State agency  
3 that is in a partnership receiving an allotment  
4 under this section—

5                           “(i) shall—

6                                   “(I) serve as the primary admin-  
7 istrative unit for the partnership;

8                                   “(II) provide or coordinate non-  
9 Federal share funds, and coordinate  
10 activities among partners;

11                                   “(III) encourage each institution  
12 of higher education in the State to  
13 participate in the partnership;

14                                   “(IV) make determinations and  
15 early notifications of assistance as de-  
16 scribed under subsection (d)(2); and

17                                   “(V) annually report to the Sec-  
18 retary on the partnership’s progress  
19 in meeting the purpose of this section;  
20 and

21                                   “(ii) may provide early information  
22 and intervention, mentoring, or outreach  
23 programs.

24                   “(B) DEGREE GRANTING INSTITUTIONS OF  
25 HIGHER EDUCATION.—A degree granting insti-

1           tution of higher education that is in a partner-  
2           ship receiving an allotment under this section—

3                   “(i) shall—

4                           “(I) recruit and admit partici-  
5                           pating qualified students and provide  
6                           such additional institutional grant aid  
7                           to participating students as agreed to  
8                           with the State agency;

9                           “(II) provide support services to  
10                           students who receive grants for access  
11                           and persistence under this section and  
12                           are enrolled at such institution; and

13                           “(III) assist the State in the  
14                           identification of eligible students and  
15                           the dissemination of early notifica-  
16                           tions of assistance as agreed to with  
17                           the State agency; and

18                           “(ii) may provide funding for early in-  
19                           formation and intervention, mentoring, or  
20                           outreach programs or provide such services  
21                           directly.

22                           “(C) PROGRAMS.—An early information  
23                           and intervention, mentoring, or outreach pro-  
24                           gram that is in a partnership receiving an allot-  
25                           ment under this section shall provide direct

1 services, support, and information to partici-  
 2 pating students.

3 “(D) PHILANTHROPIC ORGANIZATION OR  
 4 PRIVATE CORPORATION.—A philanthropic orga-  
 5 nization or private corporation that is in a part-  
 6 nership receiving an allotment under this sec-  
 7 tion shall provide funds for grants for access  
 8 and persistence for participating students, or  
 9 provide funds or support for early information  
 10 and intervention, mentoring, or outreach pro-  
 11 grams.

12 “(d) AUTHORIZED ACTIVITIES.—

13 “(1) IN GENERAL.—

14 “(A) ESTABLISHMENT OF PARTNER-  
 15 SHIP.—Each State receiving an allotment under  
 16 this section shall use the funds to establish a  
 17 partnership to award grants for access and per-  
 18 sistence to eligible low-income students in order  
 19 to increase the amount of financial assistance  
 20 such students receive under this subpart for un-  
 21 dergraduate education expenses.

22 “(B) AMOUNT OF GRANTS.—

23 “(i) PARTNERSHIPS WITH INSTITU-  
 24 TIONS SERVING LESS THAN A MAJORITY  
 25 OF STUDENTS IN THE STATE.—

1           “(I) IN GENERAL.—In the case  
2           where a State receiving an allotment  
3           under this section is in a partnership  
4           described in subsection (b)(2)(A)(i),  
5           the amount of a grant for access and  
6           persistence awarded by such State  
7           shall be not less than the amount that  
8           is equal to the average undergraduate  
9           tuition and mandatory fees at 4-year  
10          public institutions of higher education  
11          in the State where the student resides  
12          (less any other Federal or State spon-  
13          sored grant amount, work study  
14          amount, and scholarship amount re-  
15          ceived by the student), and such  
16          amount shall be used toward the cost  
17          of attendance at an institution of  
18          higher education located in the State.

19          “(II) COST OF ATTENDANCE.—A  
20          State that has a program, apart from  
21          the partnership under this section, of  
22          providing eligible low-income students  
23          with grants that are equal to the aver-  
24          age undergraduate tuition and man-  
25          datory fees at 4-year public institu-

1            tions of higher education in the State,  
2            may increase the amount of grants for  
3            access and persistence awarded by  
4            such State up to an amount that is  
5            equal to the average cost of attend-  
6            ance at 4-year public institutions of  
7            higher education in the State (less  
8            any other Federal or State sponsored  
9            grant amount, work study amount,  
10          and scholarship amount received by  
11          the student).

12            “(ii) PARTNERSHIPS WITH INSTITU-  
13          TIONS SERVING THE MAJORITY OF STU-  
14          DENTS IN THE STATE.—In the case where  
15          a State receiving an allotment under this  
16          section is in a partnership described in  
17          subsection (b)(2)(A)(ii), the amount of a  
18          grant for access and persistence awarded  
19          by such State shall be not more than an  
20          amount that is equal to the average cost of  
21          attendance at 4-year public institutions of  
22          higher education in the State where the  
23          student resides (less any other Federal or  
24          State sponsored grant amount, college  
25          work study amount, and scholarship

1 amount received by the student), and such  
2 amount shall be used by the student to at-  
3 tend an institution of higher education lo-  
4 cated in the State.

5 “(C) SPECIAL RULES.—

6 “(i) PARTNERSHIP INSTITUTIONS.—A  
7 State receiving an allotment under this  
8 section may restrict the use of grants for  
9 access and persistence under this section  
10 by awarding the grants only to students  
11 attending institutions of higher education  
12 that are participating in the partnership.

13 “(ii) OUT-OF-STATE INSTITUTIONS.—  
14 If a State provides grants through another  
15 program under this subpart to students at-  
16 tending institutions of higher education lo-  
17 cated in another State, such agreement  
18 may also apply to grants awarded under  
19 this section.

20 “(2) EARLY NOTIFICATION.—

21 “(A) IN GENERAL.—Each State receiving  
22 an allotment under this section shall annually  
23 notify low-income students, such as students  
24 who are eligible to receive a free lunch under  
25 the school lunch program established under the

1 Richard B. Russell National School Lunch Act,  
2 in grade 7 through grade 12 in the State, of  
3 the students' potential eligibility for student fi-  
4 nancial assistance, including a grant for access  
5 and persistence, to attend an institution of  
6 higher education.

7 “(B) CONTENT OF NOTICE.—The notifica-  
8 tion under subparagraph (A)—

9 “(i) shall include—

10 “(I) information about early in-  
11 formation and intervention, men-  
12 toring, or outreach programs available  
13 to the student;

14 “(II) information that a stu-  
15 dent's candidacy for a grant for ac-  
16 cess and persistence is enhanced  
17 through participation in an early in-  
18 formation and intervention, men-  
19 toring, or outreach program;

20 “(III) an explanation that stu-  
21 dent and family eligibility and partici-  
22 pation in other Federal means-tested  
23 programs may indicate eligibility for a  
24 grant for access and persistence and  
25 other student aid programs;

1           “(IV) a nonbinding estimation of  
2           the total amount of financial aid a  
3           low-income student with a similar in-  
4           come level may expect to receive, in-  
5           cluding an estimation of the amount  
6           of a grant for access and persistence  
7           and an estimation of the amount of  
8           grants, loans, and all other available  
9           types of aid from the major Federal  
10          and State financial aid programs;

11          “(V) an explanation that in order  
12          to be eligible for a grant for access  
13          and persistence, at a minimum, a stu-  
14          dent shall—

15                 “(aa) meet the requirement  
16                 under paragraph (3);

17                 “(bb) graduate from sec-  
18                 ondary school; and

19                 “(cc) enroll at an institution  
20                 of higher education that is a  
21                 partner in the partnership or  
22                 qualifies under subsection  
23                 (d)(1)(C)(ii);

24          “(VI) information on any addi-  
25          tional requirements (such as a student

1 pledge detailing student responsibil-  
2 ities) that the State may impose for  
3 receipt of a grant for access and per-  
4 sistence under this section; and

5 “(VII) instructions on how to  
6 apply for a grant for access and per-  
7 sistence and an explanation that a  
8 student is required to file a Free Ap-  
9 plication for Federal Student Aid au-  
10 thORIZED under section 483(a) to be el-  
11 igible for such grant and assistance  
12 from other Federal and State finan-  
13 cial aid programs; and

14 “(ii) may include a disclaimer that  
15 grant awards for access and persistence  
16 are contingent upon—

17 “(I) a determination of the stu-  
18 dent’s financial eligibility at the time  
19 of the student’s enrollment at an in-  
20 stitution of higher education that is a  
21 partner in the partnership or qualifies  
22 under subsection (d)(1)(C)(ii);

23 “(II) annual Federal and State  
24 appropriations; and

1                   “(III) other aid received by the  
2                   student at the time of the student’s  
3                   enrollment at such institution of high-  
4                   er education.

5                   “(3) ELIGIBILITY.—In determining which stu-  
6                   dents are eligible to receive grants for access and  
7                   persistence, the State shall ensure that each such  
8                   student meets not less than 1 of the following:

9                   “(A) Meets not less than 2 of the following  
10                  criteria, with priority given to students meeting  
11                  all of the following criteria:

12                  “(i) Has an expected family contribu-  
13                  tion equal to zero (as described in section  
14                  479) or a comparable alternative based  
15                  upon the State’s approved criteria in sec-  
16                  tion 415C(b)(4).

17                  “(ii) Has qualified for a free lunch, or  
18                  at the State’s discretion a reduced price  
19                  lunch, under the school lunch program es-  
20                  tablished under the Richard B. Russell Na-  
21                  tional School Lunch Act.

22                  “(iii) Qualifies for the State’s max-  
23                  imum undergraduate award, as authorized  
24                  under section 415C(b).

1           “(iv) Is participating in, or has par-  
2           ticipated in, a Federal, State, institutional,  
3           or community early information and inter-  
4           vention, mentoring, or outreach program,  
5           as recognized by the State agency admin-  
6           istering activities under this section.

7           “(B) Is receiving, or has received, a grant  
8           for access and persistence under this section, in  
9           accordance with paragraph (5).

10          “(4) GRANT AWARD.—Once a student, includ-  
11          ing those students who have received early notifica-  
12          tion under paragraph (2) from the State, applies for  
13          admission to an institution that is a partner in the  
14          partnership, files a Free Application for Federal  
15          Student Aid and any related existing State form,  
16          and is determined eligible by the State under para-  
17          graph (3), the State shall—

18                 “(A) issue the student a preliminary award  
19                 certificate for a grant for access and persistence  
20                 with tentative award amounts; and

21                 “(B) inform the student that payment of  
22                 the grant for access and persistence award  
23                 amounts is subject to certification of enrollment  
24                 and award eligibility by the institution of higher  
25                 education.

1           “(5) DURATION OF AWARD.—An eligible stu-  
2           dent that receives a grant for access and persistence  
3           under this section shall receive such grant award for  
4           each year of such student’s undergraduate education  
5           in which the student remains eligible for assistance  
6           under this title, including pursuant to section  
7           484(c), and remains financially eligible as deter-  
8           mined by the State, except that the State may im-  
9           pose reasonable time limits to degree completion.

10          “(e) USE OF FUNDS FOR ADMINISTRATIVE COSTS  
11          PROHIBITED.—A State that receives an allotment under  
12          this section shall not use any of the allotted funds to pay  
13          administrative costs associated with any of the authorized  
14          activities described in subsection (d).

15          “(f) STATUTORY AND REGULATORY RELIEF FOR IN-  
16          STITUTIONS OF HIGHER EDUCATION.—The Secretary  
17          may grant, upon the request of an institution of higher  
18          education that is in a partnership described in subsection  
19          (b)(2)(A)(ii) and that receives an allotment under this sec-  
20          tion, a waiver for such institution from statutory or regu-  
21          latory requirements that inhibit the ability of the institu-  
22          tion to successfully and efficiently participate in the activi-  
23          ties of the partnership.

1       “(g) APPLICABILITY RULE.—The provisions of this  
2 subpart which are not inconsistent with this section shall  
3 apply to the program authorized by this section.

4       “(h) MAINTENANCE OF EFFORT REQUIREMENT.—  
5 Each State receiving an allotment under this section for  
6 a fiscal year shall provide the Secretary with an assurance  
7 that the aggregate amount expended per student or the  
8 aggregate expenditures by the State, from funds derived  
9 from non-Federal sources, for the authorized activities de-  
10 scribed in subsection (d) for the preceding fiscal year were  
11 not less than the amount expended per student or the ag-  
12 gregate expenditure by the State for the activities for the  
13 second preceding fiscal year.

14       “(i) SPECIAL RULE.—Notwithstanding subsection  
15 (h), for purposes of determining a State’s share of the cost  
16 of the authorized activities described in subsection (d), the  
17 State shall consider only those expenditures from non-  
18 Federal sources that exceed the State’s total expenditures  
19 for need-based grants, scholarships, and work-study as-  
20 sistance for fiscal year 1999 (including any such assist-  
21 ance provided under this subpart).

22       “(j) CONTINUATION AND TRANSITION.—For the 2-  
23 year period that begins on the date of enactment of the  
24 Higher Education Amendments of 2005, the Secretary  
25 shall continue to award grants under section 415E of the

1 Higher Education Act of 1965 as such section existed on  
2 the day before the date of enactment of such Act to States  
3 that choose to apply for grants under such predecessor  
4 section.

5 “(k) REPORTS.—Not later than 3 years after the  
6 date of enactment of the Higher Education Amendments  
7 of 2005 and annually thereafter, the Secretary shall sub-  
8 mit a report describing the activities and the impact of  
9 the partnerships under this section to the authorizing  
10 committees.”.

11 **SEC. 7367. SPECIAL PROGRAMS FOR STUDENTS WHOSE**  
12 **FAMILIES ARE ENGAGED IN MIGRANT AND**  
13 **SEASONAL FARMWORK.**

14 Section 418A (20 U.S.C. 1070d–2) is amended—

15 (1) in subsection (a), by adding “(including  
16 providing outreach and technical assistance)” after  
17 “maintain and expand”;

18 (2) in subsection (b)—

19 (A) in paragraph (1)(B)(i), by striking  
20 “parents” and inserting “immediate family”;

21 (B) in paragraph (3)(B), by inserting “(in-  
22 cluding preparation for college entrance exami-  
23 nations)” after “college program”;

24 (C) in paragraph (5), by striking “weekly”;

1 (D) in paragraph (7), by striking “and”  
2 after the semicolon;

3 (E) in paragraph (8), by striking the pe-  
4 riod at the end and inserting “; and”; and

5 (F) by adding at the end the following:

6 “(9) other activities to improve persistence and  
7 retention in postsecondary education.”;

8 (3) in subsection (c)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (B)—

11 (I) in the matter preceding clause  
12 (i), by inserting “to improve place-  
13 ment, persistence, and retention in  
14 postsecondary education” after “serv-  
15 ices”; and

16 (II) in clause (i), by striking  
17 “and career” and inserting “career,  
18 and economic education or personal fi-  
19 nance”;

20 (ii) in subparagraph (E), by striking  
21 “and” after the semicolon;

22 (iii) by redesignating subparagraph  
23 (F) as subparagraph (G); and

24 (iv) by inserting after subparagraph  
25 (E) the following:

- 1 “(F) internships; and”; and
- 2 (B) in paragraph (2)—
- 3 (i) in subparagraph (A), by striking
- 4 “and” after the semicolon;
- 5 (ii) in subparagraph (B), by striking
- 6 the period at the end and inserting “, and
- 7 coordinating such services, assistance, and
- 8 aid with other non-program services, as-
- 9 sistance, and aid, including services, assist-
- 10 ance, and aid provided by community-
- 11 based organizations, which may include
- 12 mentoring and guidance; and”;
- 13 (iii) by adding at the end the fol-
- 14 lowing:
- 15 “(C) for students attending 2-year institu-
- 16 tions of higher education, encouraging the stu-
- 17 dents to transfer to 4-year institutions of higher
- 18 education, where appropriate, and monitoring
- 19 the rate of transfer of such students.”;
- 20 (4) in subsection (e), by striking “section
- 21 402A(c)(1)” and inserting “section 402A(c)(2)”;
- 22 (5) in subsection (f)—
- 23 (A) in paragraph (1), by striking
- 24 “\$150,000” and inserting “\$180,000”; and

1 (B) in paragraph (2), by striking  
 2 “\$150,000” and inserting “\$180,000”; and  
 3 (6) in subsection (h)—

4 (A) in paragraph (1), by striking  
 5 “\$15,000,000 for fiscal year 1999” and all that  
 6 follows through the period and inserting “such  
 7 sums as may be necessary for fiscal year 2006  
 8 and each of the 5 succeeding fiscal years.”; and

9 (B) in paragraph (2), by striking  
 10 “\$5,000,000 for fiscal year 1999” and all that  
 11 follows through the period and inserting “such  
 12 sums as may be necessary for fiscal year 2006  
 13 and each of the 5 succeeding fiscal years.”.

14 **SEC. 7368. ROBERT C. BYRD HONORS SCHOLARSHIP PRO-**  
 15 **GRAM.**

16 (a) **ELIGIBILITY OF SCHOLARS.**—Section 419F(a)  
 17 (20 U.S.C. 1070d–36(a)) is amended by inserting “(or a  
 18 home school, whether treated as a home school or a private  
 19 school under State law)” after “private or public sec-  
 20 ondary school”.

21 (b) **AUTHORIZATION OF APPROPRIATIONS.**—Section  
 22 419K (20 U.S.C. 1070d–41) is amended by striking  
 23 “\$45,000,000 for fiscal year 1999” and all that follows  
 24 through the period and inserting “such sums as may be

1 necessary for fiscal year 2006 and each of the 5 suc-  
2 ceeding fiscal years.”.

3 **SEC. 7369. CHILD CARE ACCESS MEANS PARENTS IN**  
4 **SCHOOL.**

5 (a) MINIMUM GRANT.—Section 419N(b)(2)(B) (20  
6 U.S.C. 1070e(b)(2)(B)) is amended—

7 (1) by striking “A grant” and inserting the fol-  
8 lowing:

9 “(i) IN GENERAL.—Except as pro-  
10 vided in clause (ii), a grant”; and

11 (2) by adding at the end the following:

12 “(ii) INCREASE TRIGGER.—For any  
13 fiscal year for which the amount appro-  
14 priated under the authority of subsection  
15 (g) is equal to or greater than  
16 \$20,000,000, a grant under this section  
17 shall be awarded in an amount that is not  
18 less than \$30,000.”.

19 (b) DEFINITION OF LOW-INCOME STUDENT.—Para-  
20 graph (7) of section 419N(b) (20 U.S.C. 1070e(b)) is  
21 amended to read as follows:

22 “(7) DEFINITION OF LOW-INCOME STUDENT.—  
23 For the purpose of this section, the term ‘low-income  
24 student’ means a student who—

1           “(A) is eligible to receive a Federal Pell  
2           Grant for the fiscal year for which the deter-  
3           mination is made; or

4           “(B) would otherwise be eligible to receive  
5           a Federal Pell Grant for the fiscal year for  
6           which the determination is made, except that  
7           the student fails to meet the requirements of—

8                   “(i) section 401(c)(1) because the stu-  
9                   dent is enrolled in a graduate or first pro-  
10                  fessional course of study; or

11                   “(ii) section 484(a)(5) because the  
12                  student is in the United States for a tem-  
13                  porary purpose.”.

14           (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
15           419N(g) (20 U.S.C. 1070e(g)) is amended by striking  
16           “\$45,000,000 for fiscal year 1999” and all that follows  
17           through the period and inserting “such sums as may be  
18           necessary for fiscal year 2006 and each of the 5 suc-  
19           ceeding fiscal years.”.

20           **SEC. 7370. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.**

21           Subpart 8 of part A of title IV (20 U.S.C. 1070f et  
22           seq.) is repealed.



1           “(ii) in the case of a student who is  
2           studying outside the United States in a  
3           program of study abroad that is approved  
4           for credit by the home institution at which  
5           such student is enrolled, and only after  
6           verification of the student’s enrollment by  
7           the lender or guaranty agency, are, at the  
8           request of the student, disbursed directly  
9           to the student by the means described in  
10          clause (i), unless such student requests  
11          that the check be endorsed, or the funds  
12          transfer be authorized, pursuant to an au-  
13          thorized power-of-attorney; or

14          “(iii) in the case of a student who is  
15          studying outside the United States in a  
16          program of study at an eligible foreign in-  
17          stitution, are, at the request of the foreign  
18          institution, disbursed directly to the stu-  
19          dent, only after verification of the stu-  
20          dent’s enrollment by the lender or guar-  
21          anty agency by the means described in  
22          clause (i);” and

23          (B) in subparagraph (Y)(i)(III), by insert-  
24          ing “, except that, if requested by an institution  
25          of higher education, the lender shall confirm

1           such status through use of the National Stu-  
2           dent Loan Data System” before the semicolon;  
3           and

4           (2) in subsection (c)(2)(H)(i), by striking  
5           “preclaims” and inserting “default aversion”.

6 **SEC. 7383. FEDERAL CONSOLIDATION LOANS.**

7           Section 428C(b)(1) (20 U.S.C. 1078–3(b)(1)) is  
8 amended—

9           (1) in subparagraph (E), by striking “and”  
10          after the semicolon;

11          (2) by redesignating subparagraph (F) as sub-  
12          paragraph (G); and

13          (3) by inserting after subparagraph (E) the fol-  
14          lowing:

15                 “(F) that the lender will disclose, in a  
16                 clear and conspicuous manner, to borrowers  
17                 who consolidate loans made under part E of  
18                 this title—

19                         “(i) that once the borrower adds the  
20                         borrower’s Federal Perkins Loan to a Fed-  
21                         eral Consolidation Loan, the borrower will  
22                         lose all interest-free periods that would  
23                         have been available, such as those periods  
24                         when no interest accrues on the Federal  
25                         Perkins Loan while the borrower is en-

1           rolled in school at least half-time, during  
2           the grace period, and during periods when  
3           the borrower's student loan repayments  
4           are deferred;

5           “(ii) that the borrower will no longer  
6           be eligible for loan forgiveness of Federal  
7           Perkins Loans under any provision of sec-  
8           tion 465; and

9           “(iii) the occupations described in sec-  
10          tion 465(a)(2), individually and in detail,  
11          for which the borrower will lose eligibility  
12          for Federal Perkins Loan forgiveness;  
13          and”.

14 **SEC. 7384. DEFAULT REDUCTION PROGRAM.**

15          Section 428F (20 U.S.C. 1078–6) is amended by  
16          adding at the end the following:

17          “(c) FINANCIAL AND ECONOMIC LITERACY.—Where  
18          appropriate as determined by the institution of higher edu-  
19          cation in which a borrower is enrolled, each program de-  
20          scribed in subsection (b) shall include making available fi-  
21          nancial and economic education materials for the bor-  
22          rower, including making the materials available before,  
23          during, or after rehabilitation of a loan.”.

1 **SEC. 7385. REQUIREMENTS FOR DISBURSEMENT OF STU-**  
2 **DENT LOANS.**

3 Section 428G(e) (20 U.S.C. 1078–7(e)) is amended  
4 by striking “, made to a student to cover the cost of at-  
5 tendance at an eligible institution outside the United  
6 States”.

7 **SEC. 7386. REPORTS TO CREDIT BUREAUS AND INSTITU-**  
8 **TIONS OF HIGHER EDUCATION.**

9 Section 430A(a) (20 U.S.C. 1080a(a)) is amended—

10 (1) in the first sentence, by striking “with cred-  
11 it bureau organizations” and inserting “with each  
12 consumer reporting agency that compiles and main-  
13 tains files on consumers on a nationwide basis (as  
14 defined in section 603(p) of the Fair Credit Report-  
15 ing Act (15 U.S.C. 1681a(p))”;

16 (2) by redesignating paragraphs (1), (2), and  
17 (3) as paragraphs (2), (4), and (5), respectively;

18 (3) by inserting before paragraph (2) (as redesi-  
19 gnated by paragraph (2)), the following:

20 “(1) the type of loan made, insured, or guaran-  
21 teed under this title;”;

22 (4) by inserting after paragraph (2) (as redesi-  
23 gnated by paragraph (2)), the following:

24 “(3) information concerning the repayment sta-  
25 tus of the loan, which information shall be included  
26 in the file of the borrower, except that nothing in

1 this subsection shall be construed to affect any oth-  
 2 erwise applicable provision of the Fair Credit Re-  
 3 porting Act (15 U.S.C. 1681 et seq.)”;

4 (5) in paragraph (4) (as redesignated by para-  
 5 graph (2)), by striking “and” after the semicolon;

6 (6) in paragraph (5) (as redesignated by para-  
 7 graph (2)), by striking the period and inserting “;  
 8 and”;

9 (7) by adding at the end the following:

10 “(6) any other information required to be re-  
 11 ported by Federal law.”.

12 **SEC. 7387. COMMON FORMS AND FORMATS.**

13 Section 432(m)(1)(D)(i) (20 U.S.C.  
 14 1082(m)(1)(D)(i)) is amended by adding at the end the  
 15 following: “Unless otherwise notified by the Secretary,  
 16 each institution of higher education that participates in  
 17 the program under this part or part D may use a master  
 18 promissory note for loans under this part and part D.”.

19 **SEC. 7388. STUDENT LOAN INFORMATION BY ELIGIBLE**  
 20 **BORROWERS.**

21 Section 433 (20 U.S.C. 1083) is amended by adding  
 22 at the end the following:

23 “(f) BORROWER INFORMATION AND PRIVACY.—Each  
 24 entity participating in a program under this part that is  
 25 subject to subtitle A of title V of the Gramm-Leach-Bliley

1 Act (15 U.S.C. 6801 et seq.) shall only use, release, dis-  
2 close, sell, transfer, or give student information, including  
3 the name, address, social security number, or amount bor-  
4 rowed by a borrower or a borrower's parent, in accordance  
5 with the provisions of such subtitle.

6 “(g) LOAN BENEFIT DISCLOSURES.—

7 “(1) IN GENERAL.—Each eligible lender, hold-  
8 er, or servicer of a loan made, insured, or guaran-  
9 teed under this part shall provide the borrower with  
10 information on the loan benefit repayment options  
11 the lender, holder, or servicer offer, including infor-  
12 mation on reductions in interest rates—

13 “(A) by repaying the loan by automatic  
14 payroll or checking account deduction;

15 “(B) by completing a program of on-time  
16 repayment; and

17 “(C) under any other interest rate reduc-  
18 tion program.

19 “(2) INFORMATION.—Such borrower informa-  
20 tion shall include—

21 “(A) any limitations on such options;

22 “(B) explicit information on the reasons a  
23 borrower may lose eligibility for such an option;

1           “(C) examples of the impact the interest  
2           rate reductions will have on a borrower’s time  
3           for repayment and amount of repayment;

4           “(D) upon the request of the borrower, the  
5           effect the reductions in interest rates will have  
6           with respect to the borrower’s payoff amount  
7           and time for repayment; and

8           “(E) information on borrower recertifi-  
9           cation requirements.”.

10 **SEC. 7389. CONSUMER EDUCATION INFORMATION.**

11           Part B of title IV (20 U.S.C. 1071 et seq.) is amend-  
12           ed by inserting after section 433 (20 U.S.C. 1083) the  
13           following:

14 **“SEC. 433A. CONSUMER EDUCATION INFORMATION.**

15           “Each guaranty agency participating in a program  
16           under this part working with the institutions of higher  
17           education served by such guaranty agency (or in the case  
18           of an institution of higher education that provides loans  
19           exclusively through part D, the institution working with  
20           a guaranty agency or with the Secretary) shall develop and  
21           make available a quality educational program and mate-  
22           rials to provide training for students in budgeting and fi-  
23           nancial management, including debt management and  
24           other aspects of financial literacy, such as the cost of using  
25           very high interest loans to pay for postsecondary edu-

1 cation, particularly as budgeting and financial manage-  
2 ment relates to student loan programs authorized by this  
3 title. Nothing in this section shall be construed to prohibit  
4 a guaranty agency from using an existing program or ex-  
5 isting materials to meet the requirement of this section.  
6 The activities described in this section shall be considered  
7 default reduction activities for the purposes of section  
8 422.”.

9 **SEC. 7390. DEFINITION OF ELIGIBLE LENDER.**

10 Section 435(d)(2) (20 U.S.C. 1085(d)(2)) is amended  
11 by striking subparagraph (F) and inserting the following:

12 “(F) shall use the proceeds from special al-  
13 lowance payments, interest payments from bor-  
14 rowers, proceeds from the sale of a loan made,  
15 insured, or guaranteed under this part, and all  
16 other proceeds related to such a loan that are  
17 furnished to the eligible institution or any enti-  
18 ty affiliated (directly or indirectly) with the eli-  
19 gible institution, for need based grant pro-  
20 grams, except that such payments and proceeds  
21 may be used for reasonable reimbursement for  
22 direct administrative expenses;”.

1 **SEC. 7390A. REPAYMENT BY THE SECRETARY OF LOANS OF**  
 2 **BANKRUPT, DECEASED, OR DISABLED BOR-**  
 3 **ROWERS; TREATMENT OF BORROWERS AT-**  
 4 **TENDING SCHOOLS THAT FAIL TO PROVIDE A**  
 5 **REFUND, ATTENDING CLOSED SCHOOLS, OR**  
 6 **FALSELY CERTIFIED AS ELIGIBLE TO BOR-**  
 7 **ROW.**

8 Section 437 (20 U.S.C. 1087) is amended—

9 (1) in the section heading, by striking  
 10 “**CLOSED SCHOOLS OR FALSELY CERTIFIED AS**  
 11 **ELIGIBLE TO BORROW**” and inserting “**SCHOOLS**  
 12 **THAT FAIL TO PROVIDE A REFUND, ATTEND-**  
 13 **ING CLOSED SCHOOLS, OR FALSELY CERTIFIED**  
 14 **AS ELIGIBLE TO BORROW**”; and

15 (2) in the first sentence of subsection (c)(1), by  
 16 inserting “or was falsely certified as a result of a  
 17 crime of identity theft” after “falsely certified by the  
 18 eligible institution”.

19 **Subchapter C—Federal Work-Study**  
 20 **Programs**

21 **SEC. 7391. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 441(b) (42 U.S.C. 2751(b)) is amended by  
 23 striking “\$1,000,000 for fiscal year 1999” and all that  
 24 follows through the period and inserting “such sums as  
 25 may be necessary for fiscal year 2006 and each of the 5  
 26 succeeding fiscal years.”.

1 **SEC. 7392. ALLOWANCE FOR BOOKS AND SUPPLIES.**

2 Section 442(c)(4)(D) (42 U.S.C. 2752(c)(4)(D)) is  
3 amended by striking “\$450” and inserting “\$600”.

4 **SEC. 7393. GRANTS FOR FEDERAL WORK-STUDY PRO-**  
5 **GRAMS.**

6 Section 443(b)(2) (42 U.S.C. 2753(b)(2)) is  
7 amended—

8 (1) by striking subparagraph (A);

9 (2) by redesignating subparagraphs (B) and  
10 (C) as subparagraphs (A) and (B), respectively; and

11 (3) in subparagraph (A) (as redesignated by  
12 paragraph (2)), by striking “this subparagraph if”  
13 and all that follows through “institution;” and in-  
14 serting “this subparagraph if—

15 “(i) the Secretary determines that en-  
16 forcing this subparagraph would cause  
17 hardship for students at the institution; or

18 “(ii) the institution certifies to the  
19 Secretary that 15 percent or more of its  
20 total full-time enrollment participates in  
21 community service activities described in  
22 section 441(c) or tutoring and literacy ac-  
23 tivities described in subsection (d) of this  
24 section;”.

1 **SEC. 7394. JOB LOCATION AND DEVELOPMENT PROGRAMS.**

2 Section 446(a)(1) (42 U.S.C. 2756(a)(1)) is amended  
3 by striking “\$50,000” and inserting “\$75,000”.

4 **SEC. 7395. WORK COLLEGES.**

5 Section 448 (42 U.S.C. 2756b) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), by striking “under  
8 subsection (f)” and inserting “for this section  
9 under section 441(b)”; and

10 (B) in paragraph (2)—

11 (i) in the matter preceding subpara-  
12 graph (A), by striking “pursuant to sub-  
13 section (f)” and inserting “for this section  
14 under section 441(b)”; and

15 (ii) by redesignating subparagraphs  
16 (C) through (F) as subparagraphs (D)  
17 through (G), respectively; and

18 (iii) by inserting after subparagraph  
19 (B) the following:

20 “(C) support existing and new model stu-  
21 dent volunteer community service projects asso-  
22 ciated with local institutions of higher edu-  
23 cation, such as operating drop-in resource cen-  
24 ters that are staffed by students and that link  
25 people in need with the resources and opportu-  
26 nities necessary to become self-sufficient;”;

1           (2) in subsection (c), by striking “by subsection  
2           (f) to use funds under subsection (b)(1)” and insert-  
3           ing “for this section under section 441(b) or to use  
4           funds under subsection (b)(1),”; and  
5           (4) by striking subsection (f).

6           **Subchapter D—William D. Ford Federal**  
7                           **Direct Loan Program**

8           **SEC. 7401. FUNDS FOR ADMINISTRATIVE EXPENSES.**

9           Section 458 (20 U.S.C. 1087h) is amended—

10           (1) in subsection (a)(1), in the matter following  
11           subparagraph (B), by striking “\$617,000,000” and  
12           all that follows through the period and inserting  
13           “\$904,000,000 in fiscal year 2006, \$943,000,000 in  
14           fiscal year 2007, \$983,000,000 in fiscal year 2008,  
15           \$1,023,000,000 in fiscal year 2009, \$1,064,000,000  
16           in fiscal year 2010, and \$1,106,000,000 in fiscal  
17           year 2011.”; and

18           (2) in subsection (c)(1), by striking subpara-  
19           graphs (A) through (E) and inserting the following:

20                           “(A) for fiscal year 2006, shall not exceed  
21                           \$271,000,000;

22                           “(B) for fiscal year 2007, shall not exceed  
23                           \$293,000,000;

24                           “(C) for fiscal year 2008, shall not exceed  
25                           \$315,000,000;

1           “(D) for fiscal year 2009, shall not exceed  
2           \$336,000,000;

3           “(E) for fiscal year 2010, shall not exceed  
4           \$356,000,000; and

5           “(F) for fiscal year 2011, shall not exceed  
6           \$378,000,000.”.

## 7           **Subchapter E—Federal Perkins Loans**

### 8           **SEC. 7411. PROGRAM AUTHORITY.**

9           Section 461(b) (20 U.S.C. 1087aa(b)) is amended—

10           (1) in paragraph (1), by striking  
11           “\$250,000,000 for fiscal year 1999” and all that  
12           follows through the period and inserting “such sums  
13           as may be necessary for fiscal year 2006 and each  
14           of the 5 succeeding fiscal years.”; and

15           (2) in paragraph (2),—

16           (A) by striking “fiscal year 2003” and in-  
17           serting “fiscal year 2012”; and

18           (B) by striking “October 1, 2003” and in-  
19           serting “October 1, 2012”.

### 20           **SEC. 7412. TERMS OF LOANS.**

21           Section 464 (20 U.S.C. 1087dd) is amended—

22           (1) in subsection (b)(1), by striking “for an ad-  
23           ditional loan under this part” and inserting “for ad-  
24           ditional aid under this title”; and

25           (2) in subsection (e), by striking “written”.

1 **SEC. 7413. CANCELLATION OF LOANS FOR CERTAIN PUBLIC**  
2 **SERVICE.**

3 Section 465(a) (20 U.S.C. 1087ee(a)) is amended—

4 (1) in paragraph ( 2)—

5 (A) in subparagraph (B), by striking  
6 “Head Start Act which” and inserting “Head  
7 Start Act, or in a prekindergarten or child care  
8 program that is licensed or regulated by the  
9 State, that”;

10 (B) in subparagraph (H), by striking “or”  
11 after the semicolon;

12 (C) in subparagraph (I), by striking the  
13 period and inserting a semicolon; and

14 (D) by inserting before the matter fol-  
15 lowing subparagraph (I) (as amended by sub-  
16 paragraph (C)) the following:

17 “(J) as a full-time faculty member at a Tribal  
18 College or University, as that term is defined in sec-  
19 tion 316;

20 “(K) as a librarian, if the librarian has a mas-  
21 ter’s degree in library science and is employed in—

22 “(i) an elementary school or secondary  
23 school that is eligible for assistance under title  
24 I of the Elementary and Secondary Education  
25 Act of 1965; or

1           “(ii) a public library that serves a geo-  
 2           graphic area that contains 1 or more schools el-  
 3           igible for assistance under title I of the Elemen-  
 4           tary and Secondary Education Act of 1965; or  
 5           “(L) as a full-time speech language therapist, if  
 6           the therapist has a master’s degree and is working  
 7           exclusively with schools that are eligible for assist-  
 8           ance under title I of the Elementary and Secondary  
 9           Education Act of 1965.”; and

10           (2) in paragraph (3)(A)(i), by striking “or (I)”  
 11           and inserting “(I), (J), (K), or (L)”.

12 **SEC. 7414. FEDERAL CAPITAL CONTRIBUTION RECOVERY.**

13           Section 466 (20 U.S.C. 1087ff) is amended—

14           (1) in subsection (a)—

15           (A) by striking “2003” each place it ap-  
 16           pears and inserting “2011”; and

17           (B) by striking “2004” and inserting  
 18           “2012”; and

19           (2) in subsection (c), by striking “2004” and  
 20           inserting “2012”.

21           **Subchapter F—Need Analysis**

22 **SEC. 7421. COST OF ATTENDANCE.**

23           Section 472 (20 U.S.C. 1087ll) is amended—

24           (1) by striking paragraph (4) and inserting the  
 25           following:

1           “(4) for less than half-time students (as deter-  
2           mined by the institution), tuition and fees and an al-  
3           lowance for only—

4                   “(A) books, supplies, and transportation  
5                   (as determined by the institution);

6                   “(B) dependent care expenses (determined  
7                   in accordance with paragraph (8)); and

8                   “(C) room and board costs (determined in  
9                   accordance with paragraph (3)), except that a  
10                  student may receive an allowance for such costs  
11                  under this subparagraph for not more than 3  
12                  semesters or the equivalent, of which not more  
13                  than 2 semesters or the equivalent may be con-  
14                  secutive;”;

15           (2) in paragraph (11), by striking “and” after  
16           the semicolon;

17           (3) in paragraph (12), by striking the period  
18           and inserting “; and”; and

19           (4) by adding at the end the following:

20                   “(13) at the option of the institution, for a stu-  
21                   dent in a program requiring professional licensure or  
22                   certification, the one time cost of obtaining the first  
23                   professional credentials (as determined by the insti-  
24                   tution).”.

1 **SEC. 7422. DISCRETION OF STUDENT FINANCIAL AID AD-**  
2 **MINISTRATORS.**

3 The third sentence of section 479A(a) (20 U.S.C.  
4 1087tt(a)) is amended—

5 (1) by inserting “or an independent student”  
6 after “family member”; and

7 (2) by inserting “a change in housing status  
8 that results in homelessness,” after “under section  
9 487,”.

10 **SEC. 7423. DEFINITIONS.**

11 (a) DEFINITIONS.—Section 480 (20 U.S.C. 1087vv)  
12 is amended—

13 (1) in subsection (f)—

14 (A) in paragraph (1), by inserting “quali-  
15 fied education benefits (except as provided in  
16 paragraph (3)),” after “tax shelters,”; and

17 (B) by adding at the end the following:

18 “(3) A qualified education benefit shall not be consid-  
19 ered an asset of a student for purposes of section 475.

20 “(4) In determining the value of assets in a deter-  
21 mination of need under this title (other than for subpart  
22 4 of part A), the value of a qualified education benefit  
23 shall be—

24 “(A) the refund value of any tuition credits or  
25 certificates purchased under a qualified education  
26 benefit; and

1           “(B) in the case of a program in which con-  
2 tributions are made to an account that is established  
3 for the purpose of meeting the qualified higher edu-  
4 cation expenses of the designated beneficiary of the  
5 account, the current balance of such account.

6           “(5) In this subsection:

7           “(A) QUALIFIED EDUCATION BENEFIT.—The  
8 term ‘qualified education benefit’ means—

9           “(i) a qualified tuition program (as defined  
10 in section 529(b)(1)(A) of the Internal Revenue  
11 Code of 1986) or other prepaid tuition plan of-  
12 fered by a State; and

13           “(ii) a Coverdell education savings account  
14 (as defined in section 530(b)(1) of the Internal  
15 Revenue Code of 1986).

16           “(B) QUALIFIED HIGHER EDUCATION EX-  
17 PENSES.—The term ‘qualified higher education ex-  
18 penses’ has the meaning given the term in section  
19 529(e) of the Internal Revenue Code of 1986.”; and

20           (2) in subsection (j)—

21           (A) in the subsection heading, by striking

22           “; TUITION PREPAYMENT PLANS”;

23           (B) by striking paragraph (2);

24           (C) by redesignating paragraph (3) as  
25 paragraph (2); and

1 (D) by inserting after paragraph (2) (as  
2 redesignated by subparagraph (C)) the fol-  
3 lowing paragraph:

4 “(3) Notwithstanding paragraph (1) and section 472,  
5 assistance not received under this title may be excluded  
6 from both estimated financial assistance and cost of at-  
7 tendance, if that assistance is designated by the State pro-  
8 viding that assistance to offset a specific component of the  
9 cost of attendance. If that assistance is excluded from esti-  
10 mated financial assistance or cost of attendance, that as-  
11 sistance shall be excluded from both calculations.”.

12 (3) in subsection (d)—

13 (A) in paragraph (2), by striking “is an or-  
14 phan or ward of the court” and inserting “is an  
15 orphan, in foster care, or ward of the court or  
16 was in foster care”;

17 (B) in paragraph (6), by striking “or”  
18 after the semicolon;

19 (C) by redesignating paragraph (7) as  
20 paragraph (8); and

21 (D) by inserting after paragraph (6) the  
22 following:

23 “(7) has been verified as both a homeless child  
24 or youth and an unaccompanied youth, as such  
25 terms are defined in section 725 of the McKinney-

1 Vento Homeless Assistance Act (42 U.S.C. 11434a),  
 2 during the school year in which the application for  
 3 financial assistance is submitted, by—

4 “(A) a local educational agency liaison for  
 5 homeless children and youths, as designated  
 6 under section 722(g)(1)(J)(ii) of the McKinney-  
 7 Vento Homeless Assistance Act (42 U.S.C.  
 8 11432(g)(1)(J)(ii));

9 “(B) a director of a homeless shelter, tran-  
 10 sitional shelter, or independent living program;  
 11 or

12 “(C) a financial aid administrator; or”.

13 (b) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply with respect to determinations of  
 15 need under part F of title IV for academic years beginning  
 16 on or after July 1, 2006.

17 **Subchapter G—General Provisions Relating**  
 18 **to Student Assistance**

19 **SEC. 7431. DEFINITIONS.**

20 Section 481 (20 U.S.C. 1088) is amended—

21 (1) in the second sentence of subsection (a)(2),  
 22 by inserting “and that measures program length in  
 23 credit hours or clock hours” after “baccalaureate de-  
 24 gree”; and

1           (2) in subsection (b), by adding at the end the  
2 following:

3           “(3) For purposes of this title, the term ‘eligible pro-  
4 gram’ includes an instructional program that utilizes di-  
5 rect assessment of student learning or recognizes the di-  
6 rect assessment of student learning by others, if such as-  
7 sessment is consistent with the accreditation of the institu-  
8 tion or program utilizing the results of the assessment,  
9 in lieu of credit hours or clock hours as the measure of  
10 student learning. In the case of a program being deter-  
11 mined eligible for the first time under this paragraph, such  
12 determination shall be made by the Secretary before such  
13 program is considered to be an eligible program.”.

14 **SEC. 7432. COMPLIANCE CALENDAR.**

15           Section 482 (20 U.S.C. 1089) is amended by adding  
16 at the end the following:

17           “(a) COMPLIANCE CALENDAR.—Prior to the begin-  
18 ning of each award year, the Secretary shall provide to  
19 institutions of higher education a list of all the reports  
20 and disclosures required under this Act. The list shall  
21 include—

22           “(1) the date each report or disclosure is re-  
23 quired to be completed and to be submitted, made  
24 available, or disseminated;

1           “(2) the required recipients of each report or  
2 disclosure;

3           “(3) any required method for transmittal or  
4 dissemination of each report or disclosure;

5           “(4) a description of the content of each report  
6 or disclosure sufficient to allow the institution to  
7 identify the appropriate individuals to be assigned  
8 the responsibility for such report or disclosure;

9           “(5) references to the statutory authority, ap-  
10 plicable regulations, and current guidance issued by  
11 the Secretary regarding each report or disclosure;  
12 and

13           “(6) any other information which is pertinent to  
14 the content or distribution of the report or disclo-  
15 sure.”.

16 **SEC. 7433. FORMS AND REGULATIONS.**

17 Section 483 (20 U.S.C. 1090) is amended—

18           (1) by striking subsections (a) and (b), and in-  
19 serting the following:

20           “(a) COMMON FINANCIAL AID FORM DEVELOPMENT  
21 AND PROCESSING.—

22           “(1) IN GENERAL.—The Secretary, in coopera-  
23 tion with representatives of agencies and organiza-  
24 tions involved in student financial assistance, shall  
25 produce, distribute, and process free of charge com-

1 mon financial reporting forms as described in this  
2 subsection to be used to determine the need and eli-  
3 gibility of a student for financial assistance under  
4 parts A through E of this title (other than under  
5 subpart 4 of part A). The forms shall be made avail-  
6 able to applicants in both paper and electronic for-  
7 mats and shall be referred to (except as otherwise  
8 provided in this subsection) as the ‘Free Application  
9 for Federal Student Aid’, or ‘FAFSA’.

10 “(2) PAPER FORMAT.—

11 “(A) IN GENERAL.—Subject to subpara-  
12 graph (C), the Secretary shall produce, dis-  
13 tribute, and process common forms in paper  
14 format to meet the requirements of paragraph  
15 (1). The Secretary shall develop a common  
16 paper form for applicants who do not meet the  
17 requirements of or do not wish to use the proc-  
18 ess described in subparagraph (B).

19 “(B) EZ FAFSA.—

20 “(i) IN GENERAL.—The Secretary  
21 shall develop and use a simplified paper  
22 application form, to be known as the ‘EZ  
23 FAFSA’, to be used for applicants meeting  
24 the requirements under section 479(c).

1           “(ii) REDUCED DATA REQUIRE-  
2           MENTS.—The EZ FAFSA shall permit an  
3           applicant to submit for purposes of deter-  
4           mining financial need and eligibility, only  
5           the data elements required to make a de-  
6           termination of student eligibility and  
7           whether the applicant meets the require-  
8           ments of section 479(c).

9           “(iii) STATE DATA.—The Secretary  
10          shall include on the EZ FAFSA such data  
11          items as may be necessary to award State  
12          financial assistance, as provided under  
13          paragraph (5), except the Secretary shall  
14          not include a State’s data if that State  
15          does not permit its applicants for State as-  
16          sistance to use the EZ FAFSA.

17          “(iv) FREE AVAILABILITY AND PROC-  
18          ESSING.—The provisions of paragraph (6)  
19          shall apply to the EZ FAFSA, and the  
20          data collected by means of the EZ FAFSA  
21          shall be available to institutions of higher  
22          education, guaranty agencies, and States  
23          in accordance with paragraph (9).

1                   “(v) TESTING.—The Secretary shall  
2                   conduct appropriate field testing on the  
3                   EZ FAFSA.

4                   “(C) PHASING OUT THE FULL PAPER  
5                   FORM FOR STUDENTS WHO DO NOT MEET THE  
6                   REQUIREMENTS OF THE EZ FAFSA.—

7                   “(i) IN GENERAL.—The Secretary  
8                   shall make all efforts to encourage all ap-  
9                   plicants to utilize the electronic forms de-  
10                  scribed in paragraph (3).

11                  “(ii) PHASEOUT OF FULL PAPER  
12                  FAFSA.—Not later than 5 years after the  
13                  date of enactment of the Higher Education  
14                  Amendments of 2005, to the extent prac-  
15                  ticable, the Secretary shall phase out the  
16                  printing of the long paper form created  
17                  under subparagraph (A) and used by appli-  
18                  cants who do not meet the requirements of  
19                  the EZ FAFSA described in subparagraph  
20                  (B).

21                  “(iii) AVAILABILITY OF FULL PAPER  
22                  FAFSA.—

23                  “(I) IN GENERAL.—Both prior to  
24                  and after the phaseout described in  
25                  clause (ii), the Secretary shall main-

1           tain on the Internet printable versions  
2           of the paper forms described in sub-  
3           paragraphs (A) and (B).

4                   “(II)       ACCESSIBILITY.—The  
5           printable versions described in sub-  
6           clause (I) shall be made easily acces-  
7           sible and downloadable to students on  
8           the same Web site used to provide  
9           students with the common electronic  
10          forms described in paragraph (3).

11                   “(III) SUBMISSION OF FORMS.—  
12          The Secretary shall conduct a study  
13          to determine the feasibility of using  
14          downloaded forms to ensure sufficient  
15          quality to meet the processing require-  
16          ments of this section. Following the  
17          completion of the study, the Secretary  
18          shall enable, to the extent practicable,  
19          students to submit a form described  
20          in this clause that is downloaded from  
21          the Internet and printed, in order to  
22          meet the filing requirements of this  
23          section and to receive financial assist-  
24          ance under this title.

25                   “(iv) USE OF SAVINGS.—

1                   “(I) IN GENERAL.—The Sec-  
2                   retary shall utilize any realized sav-  
3                   ings accrued by phasing out the full  
4                   paper FAFSA and moving more appli-  
5                   cants to the common electronic forms,  
6                   to improve access to the electronic  
7                   forms for applicants meeting the re-  
8                   quirements of section 479(c).

9                   “(II) REPORT.—The Secretary  
10                  shall report annually to the author-  
11                  izing committees on—

12                               “(aa) the steps taken to im-  
13                               prove access to the common elec-  
14                               tronic forms for applicants meet-  
15                               ing the requirements of section  
16                               479(c); and

17                               “(bb) the phaseout of the  
18                               long common paper form de-  
19                               scribed in subparagraph (A).

20                  “(3) ELECTRONIC FORMAT.—

21                               “(A) IN GENERAL.—The Secretary shall  
22                               produce, distribute, and process common forms  
23                               in electronic format and make such forms avail-  
24                               able through a broadly accessible website to  
25                               meet the requirements of paragraph (1). The

1 Secretary shall develop common electronic  
2 forms for applicants who do not meet the re-  
3 quirements of subparagraph (B). The Secretary  
4 shall include on the common electronic forms  
5 space for information that needs to be sub-  
6 mitted from the applicant to be eligible for  
7 State financial assistance, as provided under  
8 paragraph (5), except the Secretary shall not  
9 require applicants to complete data required by  
10 any State other than the applicant's State of  
11 residence. The Secretary shall use all available  
12 technology to ensure that a student using a  
13 common electronic form answers only the min-  
14 imum number of questions necessary.

15 “(B) SIMPLIFIED ELECTRONIC APPLICA-  
16 TIONS.—

17 “(i) IN GENERAL.—The Secretary  
18 shall develop and use a simplified elec-  
19 tronic application form to be used by appli-  
20 cants meeting the requirements of section  
21 479(c) and an additional, separate sim-  
22 plified electronic application form to be  
23 used by applicants meeting the require-  
24 ments under section 479(b).

1           “(ii) REDUCED DATA REQUIRE-  
2           MENTS.—The simplified electronic applica-  
3           tion forms shall permit an applicant to  
4           submit for purposes of determining finan-  
5           cial need and eligibility, only the data ele-  
6           ments required to make a determination of  
7           student eligibility and whether the appli-  
8           cant meets the requirements of subsection  
9           (b) or (c) of section 479.

10           “(iii) STATE DATA.—The Secretary  
11           shall include on the simplified electronic  
12           application forms such data items as may  
13           be necessary to award State financial as-  
14           sistance, as provided under paragraph (5),  
15           except the Secretary shall not require ap-  
16           plicants to complete data required by any  
17           State other than the applicant’s State of  
18           residence and shall not include a State’s  
19           data if such State does not permit its ap-  
20           plicants for State assistance to use the  
21           simplified electronic application form de-  
22           scribed in this subparagraph.

23           “(iv) FREE AVAILABILITY AND PROC-  
24           ESSING.—The provisions of paragraph (6)  
25           shall apply to the simplified electronic ap-

1           plication forms, and the data collected by  
2           means of the simplified electronic applica-  
3           tion forms shall be available to institutions  
4           of higher education, guaranty agencies,  
5           and States in accordance with paragraph  
6           (9).

7           “(v) TESTING.—The Secretary shall  
8           conduct appropriate field testing on the  
9           forms developed under this subparagraph.

10          “(C) USE OF FORMS.—Nothing in this  
11          subsection shall be construed to prohibit the use  
12          of the forms developed by the Secretary pursu-  
13          ant to this paragraph by an eligible institution,  
14          eligible lender, a guaranty agency, a State  
15          grant agency, a private computer software pro-  
16          vider, a consortium of such entities, or such  
17          other entity as the Secretary may designate.  
18          Data collected by the forms shall be used only  
19          for the application, award, and administration  
20          of aid awarded under this title, State aid, or aid  
21          awarded by eligible institutions or such entities  
22          as the Secretary may designate. No data col-  
23          lected by such electronic version of the forms  
24          shall be used for making final aid awards under  
25          this title until such data have been processed by

1 the Secretary or a contractor or designee of the  
2 Secretary, except as may be permitted under  
3 this title.

4 “(D) PRIVACY.—The Secretary shall en-  
5 sure that data collection under this paragraph  
6 complies with section 552a of title 5, United  
7 States Code, and that any entity using the elec-  
8 tronic version of the forms developed by the  
9 Secretary pursuant to this paragraph shall  
10 maintain reasonable and appropriate adminis-  
11 trative, technical, and physical safeguards to  
12 ensure the integrity and confidentiality of the  
13 information, and to protect against security  
14 threats, or unauthorized uses or disclosures of  
15 the information provided on the electronic  
16 version of the forms.

17 “(E) SIGNATURE.—Notwithstanding any  
18 other provision of this Act, the Secretary may  
19 permit an electronic form under this paragraph  
20 to be submitted without a signature, if a signa-  
21 ture is subsequently submitted by the applicant  
22 or if the applicant uses a personal identification  
23 number provided by the Secretary under sub-  
24 paragraph (F).

1           “(F) PERSONAL IDENTIFICATION NUM-  
2           BERS AUTHORIZED.—The Secretary is author-  
3           ized to assign to applicants personal identifica-  
4           tion numbers—

5                   “(i) to enable the applicants to use  
6                   such numbers as a signature for purposes  
7                   of completing a form under this paragraph;  
8                   and

9                   “(ii) for any purpose determined by  
10                  the Secretary to enable the Secretary to  
11                  carry out this title.

12           “(4) STREAMLINED REAPPLICATION PROC-  
13           ESS.—

14                   “(A) IN GENERAL.—The Secretary shall  
15                   develop streamlined reapplication forms and  
16                   processes, including both paper and electronic  
17                   reapplication processes, consistent with the re-  
18                   quirements of this subsection, for an applicant  
19                   who applies for financial assistance under this  
20                   title in the next succeeding academic year sub-  
21                   sequent to an academic year in which such ap-  
22                   plicant applied for financial assistance under  
23                   this title.

1           “(B) MECHANISMS FOR REAPPLICATION.—

2           The Secretary shall develop appropriate mecha-  
3           nisms to support reapplication.

4           “(C) IDENTIFICATION OF UPDATED

5           DATA.—The Secretary shall determine, in co-  
6           operation with States, institutions of higher  
7           education, and agencies and organizations in-  
8           volved in student financial assistance, the data  
9           elements that can be updated from the previous  
10          academic year’s application.

11          “(D) REDUCED DATA AUTHORIZED.—

12          Nothing in this title shall be construed as lim-  
13          iting the authority of the Secretary to reduce  
14          the number of data elements required of re-  
15          applicants.

16          “(E) ZERO FAMILY CONTRIBUTION.—Ap-

17          plicants determined to have a zero family con-  
18          tribution pursuant to section 479(c) shall not  
19          be required to provide any financial data in a  
20          replication form, except that which is necessary  
21          to determine eligibility under such section.

22          “(5) STATE REQUIREMENTS.—

23          “(A) IN GENERAL.—Except as provided in

24          paragraphs (2)(B)(iii), (3)(A), and (3)(B)(iii),  
25          the Secretary shall include on the forms devel-

1           oped under this subsection, such State-specific  
2           data items as the Secretary determines are nec-  
3           essary to meet State requirements for need-  
4           based State aid. Such items shall be selected in  
5           consultation with State agencies in order to as-  
6           sist in the awarding of State financial assist-  
7           ance in accordance with the terms of this sub-  
8           section, except as provided in paragraphs  
9           (2)(B)(iii), (3)(A), and (3)(B)(iii). The number  
10          of such data items shall not be less than the  
11          number included on the form for the 2005–  
12          2006 award year unless a State notifies the  
13          Secretary that the State no longer requires  
14          those data items for the distribution of State  
15          need-based aid.

16               “(B) ANNUAL REVIEW.—The Secretary  
17               shall conduct an annual review process to deter-  
18               mine which data items the States require to  
19               award need-based State aid.

20               “(C) ENCOURAGE USE OF FORMS.—The  
21               Secretary shall encourage States to take such  
22               steps as are necessary to encourage the use of  
23               simplified application forms, including those de-  
24               scribed in paragraphs (2)(B) and (3)(B), for

1 applicants who meet the requirements of sub-  
2 section (b) or (c) of section 479.

3 “(D) FEDERAL REGISTER NOTICE.—The  
4 Secretary shall publish, on an annual basis, a  
5 notice in the Federal Register requiring States  
6 to inform the Secretary—

7 “(i) if the State plans to use the  
8 FAFSA to collect data to determine eligi-  
9 bility for State need-based financial aid;

10 “(ii) of the State-specific data that  
11 the State requires for delivery of State  
12 need-based financial aid; and

13 “(iii) if the State agency is unable to  
14 permit applicants to utilize the simplified  
15 application forms described in paragraph  
16 (2)(B) or (3)(B).

17 “(E) STATE NOTIFICATION TO THE SEC-  
18 RETARY.—

19 “(i) IN GENERAL.—Each State agency  
20 shall notify the Secretary—

21 “(I) whether the State permits  
22 an applicant to file a form described  
23 in paragraph (2)(B) or (3)(B) for  
24 purposes of determining eligibility for  
25 State need-based financial aid; and

1                   “(II) of the State-specific data  
2                   that the State requires for delivery of  
3                   State need-based financial aid.

4                   “(ii) ACCEPTANCE OF FORMS.—If a  
5                   State does not permit an applicant to file  
6                   a form described in paragraph (2)(B) or  
7                   (3)(B) for purposes of determining eligi-  
8                   bility for State need-based financial aid,  
9                   then the State shall notify the Secretary if  
10                  it is not permitted to do so because of  
11                  State law or agency policy. The notification  
12                  shall include an acknowledgment that  
13                  State-specific questions will not be included  
14                  on a form described in paragraph (2)(B)  
15                  or (3)(B).

16                  “(iii) LACK OF NOTIFICATION BY THE  
17                  STATE.—If a State does not notify the  
18                  Secretary pursuant to clause (i), the Sec-  
19                  retary shall—

20                         “(I) permit residents of that  
21                         State to complete simplified applica-  
22                         tion forms under paragraphs (2)(B)  
23                         and (3)(B); and

24                         “(II) not require any resident of  
25                         such State to complete any data pre-

1                   viously required by that State under  
2                   this section.

3                   “(F) RESTRICTION.—The Secretary shall  
4                   not require applicants to complete any financial  
5                   or non-financial data that are not required by  
6                   the applicant’s State, except as may be required  
7                   for applicants who use the paper forms de-  
8                   scribed in subparagraphs (A) and (B) of para-  
9                   graph (2).

10                  “(6) CHARGES TO STUDENTS AND PARENTS  
11                  FOR USE OF FORMS PROHIBITED.—The common fi-  
12                  nancial reporting forms prescribed by the Secretary  
13                  under this subsection shall be produced, distributed,  
14                  and processed by the Secretary, and no parent or  
15                  student shall be charged a fee by the Secretary, a  
16                  contractor, a third-party servicer or private software  
17                  provider, or any other public or private entity for the  
18                  collection, processing, or delivery of financial aid  
19                  through the use of such forms. The need and eligi-  
20                  bility of a student for financial assistance under  
21                  parts A through E (other than under subpart 4 of  
22                  part A) may be determined only by using a form de-  
23                  veloped by the Secretary pursuant to this subsection.  
24                  No student may receive financial assistance under  
25                  parts A through E (other than under subpart 4 of

1 part A), except by use of a form developed by the  
2 Secretary pursuant to this subsection. No data col-  
3 lected on a paper or electronic form or other docu-  
4 ment that the Secretary determines was created to  
5 replace a form prescribed under this subsection and  
6 therefore violates the integrity of a simplified and  
7 free financial aid application process and for which  
8 a fee is charged shall be used to complete the form  
9 prescribed under this subsection. No person, com-  
10 mercial entity, or other entity shall request, obtain,  
11 or utilize an applicant's personal identification num-  
12 ber assigned under paragraph (3)(F) for purposes of  
13 submitting an application on an applicant's behalf.

14 “(7) APPLICATION PROCESSING CYCLE.—The  
15 Secretary shall—

16 “(A) enable students to submit forms cre-  
17 ated under this subsection in order to meet the  
18 filing requirements of this section and in order  
19 to receive financial assistance from programs  
20 under this title; and

21 “(B) enable students to submit forms cre-  
22 ated under this subsection and initiate the proc-  
23 essing of such forms under this subsection, as  
24 early as practicable prior to January 1 of the  
25 student's planned year of enrollment.

1           “(8) EARLY ESTIMATES.—The Secretary shall  
2 permit an applicant to complete a form described in  
3 this subsection in the years prior to enrollment in  
4 order to obtain from the Secretary a nonbinding es-  
5 timate of the applicant’s expected family contribu-  
6 tion, as defined in section 473. Such applicant shall  
7 be permitted to update information submitted on a  
8 form described in this subsection using the process  
9 required under paragraph (4).

10           “(9) DISTRIBUTION OF DATA.—Institutions of  
11 higher education, guaranty agencies, and States  
12 shall receive, without charge, the data collected by  
13 the Secretary using the form developed pursuant to  
14 this subsection for the purposes of processing loan  
15 applications and determining need and eligibility for  
16 institutional and State financial aid awards. Entities  
17 designated by institutions of higher education, guar-  
18 anty agencies, or States to receive such data shall be  
19 subject to all the requirements of this section, unless  
20 such requirements are waived by the Secretary.

21           “(10) THIRD PARTY SERVICERS AND PRIVATE  
22 SOFTWARE PROVIDERS.—To the extent practicable  
23 and in a timely manner, the Secretary shall provide,  
24 to private organizations and consortia that develop  
25 software used by institutions of higher education for

1 the administration of funds under this title, all the  
2 necessary specifications that the organizations and  
3 consortia must meet for the software the organiza-  
4 tions and consortia develop, produce, and distribute  
5 (including any diskette, modem, or network commu-  
6 nications) which are so used. The specifications shall  
7 contain record layouts for required data. The Sec-  
8 retary shall develop in advance of each processing  
9 cycle an annual schedule for providing such speci-  
10 fications. The Secretary, to the extent practicable,  
11 shall use means of providing such specifications, in-  
12 cluding conferences and other meetings, outreach,  
13 and technical support mechanisms (such as training  
14 and printed reference materials). The Secretary  
15 shall, from time to time, solicit from such organiza-  
16 tions and consortia means of improving the support  
17 provided by the Secretary.

18 “(11) PARENT’S SOCIAL SECURITY NUMBER  
19 AND BIRTH DATE.—The Secretary is authorized to  
20 include on the form developed under this subsection  
21 space for the social security number and birth date  
22 of parents of dependent students seeking financial  
23 assistance under this title.”;

24 (2) by redesignating subsections (c) through (e)  
25 as subsections (b) through (d), respectively;

1           (3) in subsection (c) (as redesignated by para-  
2           graph (2)), by striking “that is authorized” and all  
3           that follows through the period at the end and in-  
4           serting “or other appropriate provider of technical  
5           assistance and information on postsecondary edu-  
6           cational services that is authorized under section  
7           663(a) of the Individuals with Disabilities Education  
8           Act. Not later than 2 years after the date of enact-  
9           ment of the Higher Education Amendments of 2005,  
10          the Secretary shall test and implement, to the extent  
11          practicable, a toll-free telephone based system to  
12          permit applicants who meet the requirements of  
13          479(c) to submit an application over such system.”;  
14          and

15          (4) by striking subsection (d) (as redesignated  
16          by paragraph (2)) and inserting the following:

17          “(d) ASSISTANCE IN PREPARATION OF FINANCIAL  
18          AID APPLICATION.—

19                 “(1) PREPARATION AUTHORIZED.—Notwith-  
20                 standing any provision of this Act, an applicant may  
21                 use a preparer for consultative or preparation serv-  
22                 ices for the completion of the common financial re-  
23                 porting forms described in subsection (a) if the pre-  
24                 parer satisfies the requirements of this subsection.

1           “(2) PREPARER IDENTIFICATION.—Any com-  
2           mon financial reporting form required to be made  
3           under this title shall include the name, signature,  
4           address or employer’s address, social security num-  
5           ber or employer identification number, and organiza-  
6           tional affiliation of the preparer of such common fi-  
7           nancial reporting form.

8           “(3) ADDITIONAL REQUIREMENTS.—A preparer  
9           that provides consultative or preparation services  
10          pursuant to this subsection shall—

11                 “(A) clearly inform individuals upon initial  
12                 contact (including advertising in clear and con-  
13                 spicuous language on the website of the pre-  
14                 parer, including by providing a link directly to  
15                 the website described in subsection (a)(3), if the  
16                 preparer provides such services through a  
17                 website) that the common financial reporting  
18                 forms that are required to determine eligibility  
19                 for financial assistance under parts A through  
20                 E (other than subpart 4 of part A) may be  
21                 completed for free via paper or electronic forms  
22                 provided by the Secretary;

23                 “(B) refrain from producing or dissemi-  
24                 nating any form other than the forms produced  
25                 by the Secretary under subsection (a); and

1           “(C) not charge any fee to any individual  
2           seeking such services who meets the require-  
3           ments of subsection (b) or (c) of section 479.

4           “(4) SPECIAL RULE.—Nothing in this Act shall  
5           be construed to limit preparers of the common finan-  
6           cial reporting forms required to be made under this  
7           title who meet the requirements of this subsection  
8           from collecting source information from a student or  
9           parent, including Internal Revenue Service tax  
10          forms, in providing consultative and preparation  
11          services in completing the forms.”.

12 **SEC. 7434. STUDENT ELIGIBILITY.**

13          Section 484 (20 U.S.C. 1091) is amended—

14               (1) in subsection (d), by adding at the end the  
15          following:

16               “(4) The student shall be determined by the in-  
17          stitution of higher education as having the ability to  
18          benefit from the education or training offered by the  
19          institution of higher education, upon satisfactory  
20          completion of 6 credit hours or the equivalent  
21          coursework that are applicable toward a degree or  
22          certificate offered by the institution of higher edu-  
23          cation.”;

24               (2) by striking subsection (l) and inserting the  
25          following:

1       “(1) COURSES OFFERED THROUGH DISTANCE EDU-  
2   CATION.—

3           “(1)     RELATION     TO     CORRESPONDENCE  
4   COURSES.—

5           “(A) IN GENERAL.—A student enrolled in  
6           a course of instruction at an institution of high-  
7           er education that is offered principally through  
8           distance education and leads to a recognized  
9           certificate, or associate, baccalaureate, or grad-  
10          uate degree, conferred by such institution, shall  
11          not be considered to be enrolled in correspond-  
12          ence courses.

13          “(B) EXCEPTION.—An institution of high-  
14          er education referred to in subparagraph (A)  
15          shall not include an institution or school de-  
16          scribed in section 3(3)(C) of the Carl D. Per-  
17          kins Vocational and Technical Education Act of  
18          1998.

19          “(2) RESTRICTION OR REDUCTIONS OF FINAN-  
20          CIAL AID.—A student’s eligibility to receive grants,  
21          loans, or work assistance under this title shall be re-  
22          duced if a financial aid officer determines under the  
23          discretionary authority provided in section 479A  
24          that distance education results in a substantially re-  
25          duced cost of attendance to such student.

1           “(3) SPECIAL RULE.—For award years prior to  
2 the date of enactment of this subsection, the Sec-  
3 retary shall not take any compliance, disallowance,  
4 penalty, or other action against a student or an eli-  
5 gible institution when such action arises out of such  
6 institution’s prior award of student assistance under  
7 this title if the institution demonstrates to the satis-  
8 faction of the Secretary that its course of instruction  
9 would have been in conformance with the require-  
10 ments of this subsection.

11           “(4) DEFINITION.—In this subsection, the term  
12 ‘distance education’ has the meaning given the term  
13 in section 102.”; and

14           (3) in subsection (r)—

15           (A) in the matter preceding the table, by  
16 inserting “of a controlled substance, while such  
17 student is enrolled in an institution of higher  
18 education and receiving financial assistance  
19 under this title,” after “the possession”;

20           (B) in the column heading of the first  
21 table, by inserting “**while the student is**  
22 **enrolled in an institution of higher**  
23 **education and receiving financial as-**  
24 **sistance under this title**” after “**posses-**  
25 **sion of a controlled substance**”; and

1 (C) by redesignating paragraph (3) as  
2 paragraph (4); and

3 (D) by inserting after paragraph (2) the  
4 following:

5 “(2) INTERACTION WITH FAFSA.—The Sec-  
6 retary shall not require a student to provide infor-  
7 mation regarding the student’s possession of a con-  
8 trolled substance on the Free Application for Fed-  
9 eral Student Aid described in section 483(a).”.

10 **SEC. 7435. STATUTE OF LIMITATIONS AND STATE COURT**  
11 **JUDGMENTS.**

12 Section 484A (20 U.S.C. 1091a) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (1), by striking “and”  
15 after the semicolon;

16 (B) in paragraph (2), by striking the pe-  
17 riod and inserting “; and”; and

18 (C) by adding at the end the following:

19 “(3) in collecting any obligation arising from a  
20 loan made under part E of this title, an institution  
21 of higher education that has an agreement with the  
22 Secretary pursuant to section 463(a) shall not be  
23 subject to a defense raised by any borrower based on  
24 a claim of infancy.”; and

25 (2) by adding at the end the following:

1       “(d) SPECIAL RULE.—This section shall not apply in  
 2 the case of a student who is deceased or to a deceased  
 3 student’s estate or the estate of such student’s family. If  
 4 a student is deceased, then the student’s estate or the es-  
 5 tate of the student’s family shall not be required to repay  
 6 any financial assistance under this title , including interest  
 7 paid on the student’s behalf, collection costs, or other  
 8 charges specified in this title.”.

9 **SEC. 7436. INSTITUTIONAL REFUNDS.**

10       Section 484B (20 U.S.C. 1091B) is amended—

11               (1) in subsection (a)—

12                       (A) in the matter preceding clause (i) of  
 13 paragraph (2)(A), by striking “a leave of” and  
 14 inserting “1 or more leaves of”; and

15                       (B) in paragraph (3)(C)(i), by striking  
 16 “grant or loan assistance under this title” and  
 17 inserting “grant assistance under subparts 1  
 18 and 3 of part A, or loan assistance under parts  
 19 B, D, and E,”;

20               (2) in subsection (b), by adding at the end the  
 21 following:

22                       “(4) TIME FRAME.—Not later than 45 days  
 23 after the date of an institution’s determination that  
 24 a student withdrew from the institution, the institu-  
 25 tion shall—

1           “(A) return the amount required under  
2 paragraph (1);

3           “(B) notify the student of the applicable  
4 requirements regarding the overpayment of  
5 grant and loan assistance and

6           “(C) notify the student of the student’s eli-  
7 gibility for post-withdrawal disbursements.”;

8           (3) in subsection (c)(2), by striking “may deter-  
9 mine the appropriate withdrawal date.” and insert-  
10 ing “may determine—

11           (A) the appropriate withdrawal date; and

12           “(B) that the requirements of this section  
13 do not apply to the student.”; and

14           (4) in subsection (d)(2), by striking “clock  
15 hours—” and all that follows through the period and  
16 inserting “clock hours scheduled to be completed by  
17 the student in that period as of the day the student  
18 withdrew.”.

19 **SEC. 7437. INSTITUTIONAL AND FINANCIAL ASSISTANCE**  
20 **FOR STUDENTS.**

21 Section 485 (20 U.S.C. 1092) is amended—

22           (1) in subsection (a)—

23           (A) in paragraph (1)—

24           (i) in subparagraph (N), by striking  
25 “and” after the semicolon;

1 (ii) in subparagraph (O), by striking the period  
2 and inserting a semicolon; and

3 (iii) by adding at the end the fol-  
4 lowing:

5 “(P) student body diversity at the institution,  
6 including information on the percentage of enrolled,  
7 full-time students who are—

8 “(i) male;

9 “(ii) female;

10 “(iii) from a low-income background; and

11 “(iv) a self-identified member of a major  
12 racial or ethnic group;

13 “(Q) the placement in employment of, and  
14 types of employment obtained by, graduates of  
15 the institution’s degree or certificate programs,  
16 gathered from such sources as alumni surveys,  
17 student satisfaction surveys, the National Sur-  
18 vey of Student Engagement, the Community  
19 College Survey of Student Engagement, State  
20 data systems, or other relevant sources; and

21 “(R) the types of graduate and profes-  
22 sional education in which graduates of the insti-  
23 tution’s 4-year degree programs enrolled, gath-  
24 ered from such sources as alumni surveys, stu-  
25 dent satisfaction surveys, the National Survey

1 of Student Engagement, State data systems, or  
2 other relevant sources.”;

3 (B) by striking paragraph (4) and insert-  
4 ing the following:

5 “(4) For purposes of this section, institutions  
6 may—

7 “(A) exclude from the information dis-  
8 closed in accordance with subparagraph (L) of  
9 paragraph (1) the completion or graduation  
10 rates of students who leave school to serve in  
11 the Armed Forces, on official church missions,  
12 or with a recognized foreign aid service of the  
13 Federal Government; or

14 “(B) in cases where the students described  
15 in subparagraph (A) represent 20 percent or  
16 more of the certificate- or degree-seeking, full-  
17 time, undergraduate students at the institution,  
18 the institution may recalculate the completion  
19 or graduation rates of such students by exclud-  
20 ing from the calculation described in paragraph  
21 (3) the time period such students were not en-  
22 rolled due to their service in the Armed Forces,  
23 on official church missions, or with a recognized  
24 foreign aid service of the Federal Govern-  
25 ment.”; and

1 (C) by adding at the end the following:

2 “(7) The information disclosed under subparagraph  
3 (L) of paragraph (1), or reported under subsection (e),  
4 shall include information disaggregated by gender, by each  
5 major racial and ethnic subgroup, and by low-income  
6 background status as measured by Federal Pell Grant eli-  
7 gibility, if the number of students in such subgroup or  
8 with such status is sufficient to yield statistically reliable  
9 information and reporting would not reveal personally  
10 identifiable information about an individual student. If  
11 such number is not sufficient for such purposes, then the  
12 institution shall note that the institution enrolled too few  
13 of such students to so disclose or report with confidence  
14 and confidentiality.”;

15 (2) in subsection (b), by adding at the end the  
16 following:

17 “(3) Each eligible institution shall, during the  
18 exit interview required by this subsection, provide to  
19 a borrower of a loan made under part B, D, or E  
20 a clear and conspicuous notice describing the general  
21 effects of using a consolidation loan to discharge the  
22 borrower’s student loans, including—

23 “(A) the effects of consolidation on total  
24 interest to be paid, fees to be paid, and length  
25 of repayment;

1           “(B) the effects of consolidation on a bor-  
2           rower’s underlying loan benefits, including loan  
3           forgiveness, cancellation, and deferment;

4           “(C) the ability for the borrower to prepay  
5           the loan, pay on a shorter schedule, and to  
6           change repayment plans, and that borrower  
7           benefit programs may vary among different  
8           loan holders;

9           “(D) the tax benefits for which the bor-  
10          rower may be eligible; and

11          “(E) the consequences of default.”;

12          (3) in subsection (d)(2)—

13                 (A) by inserting “grant assistance, as well  
14                 as State” after “describing State”; and

15                 (B) by inserting “and other means, includ-  
16                 ing through the Internet” before the period at  
17                 the end;

18          (4) in subsection (e), by striking paragraph (3)  
19          and inserting the following:

20                 “(3) For purposes of this subsection, institu-  
21                 tions may—

22                         “(A) exclude from the reporting require-  
23                         ments under paragraphs (1) and (2) the com-  
24                         pletion or graduation rates of students and stu-  
25                         dent athletes who leave school to serve in the

1 Armed Forces, on official church missions, or  
2 with a recognized foreign aid service of the Fed-  
3 eral Government; or

4 “(B) in cases where the students described  
5 in subparagraph (A) represent 20 percent or  
6 more of the certificate- or degree-seeking, full-  
7 time, undergraduate students at the institution,  
8 the institution may calculate the completion or  
9 graduation rates of such students by excluding  
10 from the calculations described in paragraph  
11 (1) the time period such students were not en-  
12 rolled due to their service in the Armed Forces,  
13 on official church missions, or with a recognized  
14 foreign aid service of the Federal Govern-  
15 ment.”;

16 (5) in the matter preceding subparagraph (A)  
17 of subsection (f)(1), by inserting “, other than a for-  
18 eign institution of higher education,” after “under  
19 this title”; and

20 (6) by adding at the end the following:

21 “(h) TRANSFER OF CREDIT POLICIES.—

22 “(1) DISCLOSURE.—Each institution of higher  
23 education participating in any program under this  
24 title shall publicly disclose in a readable and com-  
25 prehensible manner the institution’s transfer of cred-

1 it policies which shall include a statement of the in-  
2 stitution's current transfer of credit policies that in-  
3 cludes, at a minimum—

4 “(A) a statement that transfer of credit  
5 shall not be denied solely on the basis of the  
6 agency or association that accredited such other  
7 institution of higher education, if that agency  
8 or association is recognized by the Secretary  
9 pursuant to section 496 to be a reliable author-  
10 ity as to the quality of the education or training  
11 offered;

12 “(B) a list of institutions of higher edu-  
13 cation with which the institution has established  
14 an articulation agreement; and

15 “(C) the percentage of students at the in-  
16 stitution who successfully transfer academic  
17 credits, updated on an annual basis.

18 “(2) RULE OF CONSTRUCTION.—Nothing in  
19 this subsection shall be construed to—

20 “(A) authorize an officer or employee of  
21 the Department to exercise any direction, su-  
22 pervision, or control over the curriculum, pro-  
23 gram of instruction, administration, or per-  
24 sonnel of any institution of higher education, or  
25 over any accrediting agency or association;

1           “(B) limit the application of the General  
2           Education Provisions Act; or

3           “(C) create any legally enforceable right on  
4           the part of a student to require an institution  
5           of higher education to accept a transfer of cred-  
6           it from another institution.”.

7 **SEC. 7438. NATIONAL STUDENT LOAN DATA SYSTEM.**

8           Section 485B(a) (20 U.S.C. 1092b(a)) is amended—

9           (1) by redesignating paragraphs (6) through  
10          (10) as paragraphs (7) through (11), respectively;

11          (2) in paragraph (5) (as added by Public Law  
12          101–610), by striking “effectiveness.” and inserting  
13          “effectiveness;”; and

14          (3) by redesignating paragraph (5) (as added  
15          by Public Law 101–234) as paragraph (6).

16 **SEC. 7439. EARLY AWARENESS OF FINANCIAL AID ELIGI-**  
17 **BILITY.**

18          Part G of title IV (20 U.S.C. 1088 et seq.) is amend-  
19          ed by inserting after section 485C (20 U.S.C. 1092c) the  
20          following:

21 **“SEC. 485D. EARLY AWARENESS OF FINANCIAL AID ELIGI-**  
22 **BILITY.**

23          “(a) IN GENERAL.—The Secretary shall implement,  
24          in cooperation with States, institutions of higher edu-  
25          cation, secondary schools, middle schools, early interven-

1 tion and outreach programs under this title, other agen-  
 2 cies and organizations involved in student financial assist-  
 3 ance and college access, public libraries, community cen-  
 4 ters, employers, and businesses, a comprehensive system  
 5 of early financial aid information in order to provide stu-  
 6 dents and families with early information about financial  
 7 aid and early estimates of such students' eligibility for fi-  
 8 nancial aid from multiple sources. Such system shall in-  
 9 clude the activities described in subsections (b) and (c).

10       “(b) COMMUNICATION OF AVAILABILITY OF AID AND  
 11 AID ELIGIBILITY.—

12               “(1) STUDENTS WHO RECEIVE BENEFITS.—The  
 13 Secretary shall—

14                       “(A) make special efforts to notify stu-  
 15 dents who receive or are eligible to receive bene-  
 16 fits under Federal means-tested benefit pro-  
 17 grams (including the school lunch program es-  
 18 tablished under the Richard B. Russell National  
 19 School Lunch Act (42 U.S.C. 1751 et seq.), the  
 20 food stamp program under the Food Stamp Act  
 21 of 1977 (7 U.S.C. 2011 et seq.), and other such  
 22 programs as determined by the Secretary) of  
 23 such students' potential eligibility for a max-  
 24 imum Federal Pell Grant under subpart 1 of  
 25 part A; and

1           “(B) disseminate such informational mate-  
2           rials as the Secretary determines necessary.

3           “(2) MIDDLE SCHOOL STUDENTS.—The Sec-  
4           retary, in cooperation with States, institutions of  
5           higher education, other organizations involved in col-  
6           lege access and student financial aid, middle schools,  
7           and programs under this title that serve middle  
8           school students, shall make special efforts to notify  
9           students and their parents of the availability of fi-  
10          nancial aid under this title and, in accordance with  
11          subsection (c), shall provide nonbinding estimates of  
12          grant and loan aid that an individual may be eligible  
13          for under this title upon completion of an applica-  
14          tion form under section 483(a). The Secretary shall  
15          ensure that such information is as accurate as pos-  
16          sible and that such information is provided in an  
17          age-appropriate format using dissemination mecha-  
18          nisms suitable for students in middle school.

19          “(3) SECONDARY SCHOOL STUDENTS.—The  
20          Secretary, in cooperation with States, institutions of  
21          higher education, other organizations involved in col-  
22          lege access and student financial aid, secondary  
23          schools, and programs under this title that serve sec-  
24          ondary school students, shall make special efforts to  
25          notify students in secondary school and their par-

1 ents, as early as possible but not later than such  
2 students' junior year of secondary school, of the  
3 availability of financial aid under this title and, in  
4 accordance with subsection (c), shall provide non-  
5 binding estimates of the amounts of grant and loan  
6 aid that an individual may be eligible for under this  
7 title upon completion of an application form under  
8 section 483(a). The Secretary shall ensure that such  
9 information is as accurate as possible and that such  
10 information is provided in an age-appropriate format  
11 using dissemination mechanisms suitable for stu-  
12 dents in secondary school.

13 “(4) ADULT LEARNERS.—The Secretary, in co-  
14 operation with States, institutions of higher edu-  
15 cation, other organizations involved in college access  
16 and student financial aid, employers, workforce in-  
17 vestment boards and public libraries, shall make spe-  
18 cial efforts to provide individuals who would qualify  
19 as independent students, as defined in section  
20 480(d), with information regarding the availability  
21 of financial aid under this title and, in accordance  
22 with subsection (c), with nonbinding estimates of the  
23 amounts of grant and loan aid that an individual  
24 may be eligible for under this title upon completion

1 of an application form under section 483(a). The  
2 Secretary shall ensure that such information—

3 “(A) is as accurate as possible;

4 “(B) includes specific information regard-  
5 ing the availability of financial aid for students  
6 qualified as independent students, as defined in  
7 section 480(d); and

8 “(C) uses dissemination mechanisms suit-  
9 able for adult learners.

10 “(5) PUBLIC AWARENESS CAMPAIGN.—Not  
11 later than 2 years after the date of enactment of the  
12 Higher Education Amendments of 2005, the Sec-  
13 retary, in coordination with States, institutions of  
14 higher education, early intervention and outreach  
15 programs under this title, other agencies and organi-  
16 zations involved in student financial aid, local edu-  
17 cational agencies, public libraries, community cen-  
18 ters, businesses, employers, employment services,  
19 workforce investment boards, and movie theaters,  
20 shall implement a public awareness campaign in  
21 order to increase national awareness regarding the  
22 availability of financial aid under this title. The pub-  
23 lic awareness campaign shall disseminate accurate  
24 information regarding the availability of financial  
25 aid under this title and shall be implemented, to the

1 extent practicable, using a variety of media, includ-  
2 ing print, television, radio and the Internet. The  
3 Secretary shall design and implement the public  
4 awareness campaign based upon relevant inde-  
5 pendent research and the information and dissemi-  
6 nation strategies found most effective in imple-  
7 menting paragraphs (1) through (4).

8 “(c) AVAILABILITY OF NONBINDING ESTIMATES OF  
9 FEDERAL FINANCIAL AID ELIGIBILITY.—

10 “(1) IN GENERAL.—The Secretary, in coopera-  
11 tion with States, institutions of higher education,  
12 and other agencies and organizations involved in stu-  
13 dent financial aid, shall provide, via a printed form  
14 and the Internet or other electronic means, the capa-  
15 bility for individuals to determine easily, by entering  
16 relevant data, nonbinding estimates of amounts of  
17 grant and loan aid an individual may be eligible for  
18 under this title upon completion and processing of  
19 an application and enrollment in an institution of  
20 higher education.

21 “(2) DATA ELEMENTS.—The Secretary, in co-  
22 operation with States, institutions of higher edu-  
23 cation, and other agencies and organizations in-  
24 volved in student financial aid, shall determine the  
25 data elements that are necessary to create a sim-

1       plified form that individuals can use to obtain easily  
2       nonbinding estimates of the amounts of grant and  
3       loan aid an individual may be eligible for under this  
4       title.

5           “(3) QUALIFICATION TO USE SIMPLIFIED AP-  
6       PLICATION.—The capability provided under this  
7       paragraph shall include the capability to determine  
8       whether the individual is eligible to submit a sim-  
9       plified application form under paragraph (2)(B) or  
10      (3)(B) of section 483(a).”.

11 **SEC. 7440. COLLEGE ACCESS INITIATIVE.**

12       Part G of title IV (20 U.S.C. 1088 et seq.) is further  
13      amended by inserting after section 485D (as added by sec-  
14      tion 7439) the following:

15 **“SEC. 485E. COLLEGE ACCESS INITIATIVE.**

16       “(a) STATE-BY-STATE INFORMATION.—The Sec-  
17      retary shall direct each guaranty agency with which the  
18      Secretary has an agreement under section 428(c) to pro-  
19      vide to the Secretary the information necessary for the de-  
20      velopment of Internet Web links and access for students  
21      and families to a comprehensive listing of the postsec-  
22      ondary education opportunities programs, publications,  
23      Internet Web sites, and other services available in the  
24      States for which such agency serves as the designated  
25      guarantor.

1 “(b) GUARANTY AGENCY ACTIVITIES.—

2 “(1) PLAN AND ACTIVITY REQUIRED.—Each  
3 guaranty agency with which the Secretary has an  
4 agreement under section 428(c) shall develop a plan,  
5 and undertake the activity, necessary to gather the  
6 information required under subsection (a) and to  
7 make such information available to the public and to  
8 the Secretary in a form and manner prescribed by  
9 the Secretary.

10 “(2) ACTIVITIES.—Each guaranty agency shall  
11 undertake such activities as are necessary to pro-  
12 mote access to postsecondary education for students  
13 through providing information on college planning,  
14 career preparation, and paying for college. The guar-  
15 anty agency shall publicize such information and co-  
16 ordinate such activities with other entities that pro-  
17 vide or distribute such information in the States for  
18 which such guaranty agency serves as the designated  
19 guarantor.

20 “(3) FUNDING.—The activities required by this  
21 section may be funded from the guaranty agency’s  
22 Operating Fund established pursuant to section  
23 422B and to the extent funds remain, from earnings  
24 on the restricted account established pursuant to  
25 section 422(h)(4).

1           “(4) RULE OF CONSTRUCTION.—Nothing in  
2 this subsection shall require a guaranty agency to  
3 duplicate any efforts currently underway that meet  
4 the requirements of this subsection.

5           “(c) ACCESS TO INFORMATION.—

6           “(1) SECRETARY’S RESPONSIBILITY.—The Sec-  
7 retary shall ensure the availability of the information  
8 provided, by the guaranty agencies in accordance  
9 with this section, to students, parents, and other in-  
10 terested individuals, through Web links or other  
11 methods prescribed by the Secretary.

12           “(2) GUARANTY AGENCY RESPONSIBILITY.—  
13 The guaranty agencies shall ensure that the infor-  
14 mation required by this section is available without  
15 charge in printed format for students and parents  
16 requesting such information.

17           “(3) PUBLICITY.—Not later than 270 days  
18 after the date of enactment of the Higher Education  
19 Amendments Act of 2005, the Secretary and guar-  
20 anty agencies shall publicize the availability of the  
21 information required by this section, with special  
22 emphasis on ensuring that populations that are tra-  
23 ditionally underrepresented in postsecondary edu-  
24 cation are made aware of the availability of such in-  
25 formation.”.

1 **SEC. 7441. PROGRAM PARTICIPATION AGREEMENTS.**

2 Section 487 (20 U.S.C. 1094) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (23), by adding at the  
5 end the following:

6 “(D) An institution shall be considered in  
7 compliance with the requirements of subpara-  
8 graph (A) for any student to whom the institu-  
9 tion electronically transmits a message con-  
10 taining a voter registration form acceptable for  
11 use in the State in which the institution is lo-  
12 cated, or an Internet address where such a  
13 form can be downloaded, if such information is  
14 in an electronic message devoted solely to voter  
15 registration.”; and

16 (B) by adding at the end the following:

17 “(24) The institution will, as calculated in ac-  
18 cordance with subsection (g)(1), have not less than  
19 10 percent of its revenues from sources other than  
20 funds provided under this title, or will be subject to  
21 the sanctions described in subsection (g)(2).”;

22 (2) in subsection (c)(1)(A)(i), by inserting “,  
23 except that the Secretary may modify the require-  
24 ments of this clause with regard to an institution  
25 outside the United States” before the semicolon at  
26 the end;

1           (3) by redesignating subsections (d) and (e) as  
2 subsection (e) and (f), respectively;

3           (4) by inserting after subsection (c) the fol-  
4 lowing:

5           “(d) INSTITUTIONAL REQUIREMENTS FOR TEACH-  
6 OUTS.—

7           “(1) IN GENERAL.—In the event the Secretary  
8 initiates the limitation, suspension, or termination of  
9 the participation of an institution of higher edu-  
10 cation in any program under this title under the au-  
11 thority of subsection (c)(1)(F) or initiates an emer-  
12 gency action for termination under the authority of  
13 subsection (c)(1)(G) and its prescribed regulations,  
14 the Secretary shall require that institution to pre-  
15 pare a teach-out plan for submission to the institu-  
16 tion’s accrediting agency or association in compli-  
17 ance with section 496(c)(4), the Secretary’s regula-  
18 tions on teach-out plans, and the standards of the  
19 institution’s accrediting agency or association.

20           “(2) TEACH-OUT PLAN DEFINED.—In this sub-  
21 section, the term ‘teach-out plan’ means a written  
22 plan that provides for the equitable treatment of stu-  
23 dents if an institution of higher education ceases to  
24 operate before all students have completed their pro-  
25 gram of study, and may include, if required by the

1 institution's accrediting agency or association, an  
2 agreement between institutions for such a teach-out  
3 plan.”; and

4 (5) by adding at the end the following:

5 “(g) IMPLEMENTATION OF NONTITLE IV REVENUE  
6 REQUIREMENT.—

7 “(1) CALCULATION.—In carrying out sub-  
8 section (a)(24), an institution shall use the cash  
9 basis of accounting and count the following funds as  
10 from sources of funds other than funds provided  
11 under this title:

12 “(A) Funds used by students from sources  
13 other than funds received under this title to pay  
14 tuition, fees, and other institutional charges to  
15 the institution, provided the institution can rea-  
16 sonably demonstrate that such funds were used  
17 for such purposes.

18 “(B) Funds used by the institution to sat-  
19 isfy matching-fund requirements for programs  
20 under this title.

21 “(C) Funds used by a student from sav-  
22 ings plans for educational expenses established  
23 by or on behalf of the student and which qualify  
24 for special tax treatment under the Internal  
25 Revenue Code of 1986.

1           “(D) Funds paid by a student, or on be-  
2 half of a student by a party other than the in-  
3 stitution, to the institution for an education or  
4 training program that is not eligible for funds  
5 under this title, provided that the program is  
6 approved or licensed by the appropriate State  
7 agency or an accrediting agency recognized by  
8 the Secretary.

9           “(E) Funds generated by the institution  
10 from institutional activities that are necessary  
11 for the education and training of the institu-  
12 tion’s students, if such activities are—

13               “(i) conducted on campus or at a fa-  
14 cility under the control of the institution;

15               “(ii) performed under the supervision  
16 of a member of the institution’s faculty;  
17 and

18               “(iii) required to be performed by all  
19 students in a specific educational program  
20 at the institution.

21           “(F) Institutional aid, as follows:

22               “(i) In the case of loans made by the  
23 institution, only the amount of loan repay-  
24 ments received by the institution during

1 the fiscal year for which the determination  
2 is made.

3 “(ii) In the case of scholarships pro-  
4 vided by the institution, only those scholar-  
5 ship funds provided by the institution that  
6 are—

7 “(I) in the form of monetary aid  
8 based upon the academic achieve-  
9 ments or financial need of students;  
10 and

11 “(II) disbursed during the fiscal  
12 year for which the determination is  
13 made from an established restricted  
14 account and only to the extent that  
15 the funds in that account represent  
16 designated funds from an outside  
17 source or income earned on those  
18 funds.

19 “(iii) In the case of tuition discounts,  
20 only those tuition discounts based upon the  
21 academic achievement or financial need of  
22 students.

23 “(2) SANCTIONS.—

24 “(A) FAILURE TO MEET REQUIREMENT  
25 FOR 1 YEAR.—In addition to such other means

1 of enforcing the requirements of this title as  
2 may be available to the Secretary, if an institu-  
3 tion fails to meet the requirements of sub-  
4 section (a)(24) in any year, the Secretary may  
5 impose 1 or both of the following sanctions on  
6 the institution:

7 “(i) Place the institution on provi-  
8 sional certification in accordance with sec-  
9 tion 498(h) until the institution dem-  
10 onstrates, to the satisfaction of the Sec-  
11 retary, that it is in compliance with sub-  
12 section (a)(24).

13 “(ii) Require such other increased  
14 monitoring and reporting requirements as  
15 the Secretary determines necessary until  
16 the institution demonstrates, to the satis-  
17 faction of the Secretary, that it is in com-  
18 pliance with subsection (a)(24).

19 “(B) FAILURE TO MEET REQUIREMENT  
20 FOR 2 YEARS.—An institution that fails to meet  
21 the requirements of subsection (a)(24) for 2  
22 consecutive years shall be ineligible to partici-  
23 pate in the programs authorized under this  
24 title.

1           “(3) PUBLIC AVAILABILITY OF INFORMATION.—  
 2           The Secretary shall make publicly available, through  
 3           the means described in subsection (b) of section 131,  
 4           any institution that fails to meet the requirements of  
 5           subsection (a)(24) in any year as an institution that  
 6           is failing to meet the minimum non-Federal source  
 7           of revenue requirements of such subsection  
 8           (a)(24).”.

9 **SEC. 7442. REGULATORY RELIEF AND IMPROVEMENT.**

10           Section 487A(b) (20 U.S.C. 1094a(b)) is amended—

11           (1) in paragraph (1)—

12           (A) by striking “1998” and inserting  
 13           “2005” ; and

14           (B) by striking “1999” and inserting  
 15           “2006”; and

16           (2) by striking the matter preceding paragraph  
 17           (2)(A) and inserting the following:

18           “(2) REPORT.—The Secretary shall review and  
 19           evaluate the experience of institutions participating  
 20           as experimental sites and shall, on a biennial basis,  
 21           submit a report based on the review and evaluation  
 22           to the authorizing committees. Such report shall in-  
 23           clude—”; and

24           (3) in paragraph (3)—

25           (A) in subparagraph (A)—

1 (i) by striking “Upon the submission  
2 of the report required by paragraph (2),  
3 the” and inserting “The”; and

4 (ii) by inserting “periodically” after  
5 “authorized to”;

6 (B) by striking subparagraph (B);

7 (C) by redesignating subparagraph (C) as  
8 subparagraph (B); and

9 (D) in subparagraph (B) (as redesignated  
10 by subparagraph (C))—

11 (i) by inserting “, including require-  
12 ments related to the award process and  
13 disbursement of student financial aid (such  
14 as innovative delivery systems for modular  
15 or compressed courses, or other innovative  
16 systems), verification of student financial  
17 aid application data, entrance and exit  
18 interviews, or other management proce-  
19 dures or processes as determined in the ne-  
20 gotiated rulemaking process under section  
21 492,” after “requirements in this title”;  
22 and

23 (ii) by inserting “(other than an  
24 award rule related to an experiment in

1 modular or compressed schedules)” after  
2 “award rules”; and

3 (iii) by inserting “unless the waiver of  
4 such provisions is authorized by another  
5 provision under this title” before the pe-  
6 riod at the end.

7 **SEC. 7443. TRANSFER OF ALLOTMENTS.**

8 Section 488 (20 U.S.C. 1095) is amended in the first  
9 sentence—

10 (1) in paragraph (1), by striking “and” after  
11 the semicolon;

12 (2) in paragraph (2), by striking “413D.” and  
13 inserting “413D; and”; and

14 (3) by adding at the end “(3) transfer 25 per-  
15 cent of the institution’s allotment under section  
16 413D to the institution’s allotment under section  
17 442.”.

18 **SEC. 7444. WAGE GARNISHMENT REQUIREMENT.**

19 Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is  
20 amended by striking “10 percent” and inserting “15 per-  
21 cent”.

22 **SEC. 7445. PURPOSE OF ADMINISTRATIVE PAYMENTS.**

23 Section 489(b) (20 U.S.C. 1096(b)) is amended by  
24 striking “offsetting the administrative costs of” and in-  
25 serting “administering”.

1 **SEC. 7446. ADVISORY COMMITTEE ON STUDENT FINANCIAL**  
2 **ASSISTANCE.**

3 Section 491 (20 U.S.C. 1098) is amended—

4 (1) in subsection (a)(2)—

5 (A) in subparagraph (B), by striking  
6 “and” after the semicolon;

7 (B) in subparagraph (C), by striking the  
8 period and inserting a semicolon; and

9 (C) by adding at the end the following:

10 “(D) to provide knowledge and under-  
11 standing of early intervention programs, and to  
12 make recommendations that will result in early  
13 awareness by low- and moderate-income stu-  
14 dents and families—

15 “(i) of their eligibility for assistance  
16 under this title; and

17 “(ii) to the extent practicable, of their  
18 eligibility for other forms of State and in-  
19 stitutional need-based student assistance;  
20 and

21 “(E) to make recommendations that will  
22 expand and improve partnerships among the  
23 Federal Government, States, institutions of  
24 higher education, and private entities to in-  
25 crease the awareness and the total amount of

1           need-based student assistance available to low-  
2           and moderate-income students.”;

3           (2) in subsection (c), by adding at the end the  
4           following:

5           “(3) The appointment of a member under subpara-  
6           graph (A) or (B) of paragraph (1) shall be effective upon  
7           confirmation of the member by the Senate and publication  
8           of such appointment in the Congressional Record.”.

9           (3) in subsection (d)(6), by striking “, but  
10          nothing” and all that follows through “or analyses”;

11          (4) in subsection (j)—

12                 (A) in paragraph (1)—

13                         (i) by inserting “and simplification”  
14                         after “modernization” each place the term  
15                         appears; and

16                         (ii) by striking “including” and all  
17                         that follows through “Department,”; and

18                 (B) by striking paragraphs (4) and (5) and  
19                 inserting the following:

20                         “(4) conduct a review and analysis of regula-  
21                         tions in accordance with subsection (l); and

22                         “(5) conduct a study in accordance with sub-  
23                         section (m).”;

24           (5) in subsection (k), by striking “2004” and  
25           inserting “2010”; and

1 (6) by adding at the end the following:

2 “(1) REVIEW AND ANALYSIS OF REGULATIONS.—

3 “(1) RECOMMENDATIONS.—The Advisory Com-  
4 mittee shall make recommendations to the Secretary  
5 and Congress for consideration of future legislative  
6 action regarding redundant or outdated regulations  
7 under this title, consistent with the Secretary’s re-  
8 quirements under section 498B.

9 “(2) REVIEW AND ANALYSIS OF REGULA-  
10 TIONS.—The Advisory Committee shall conduct a re-  
11 view and analysis of the regulations issued under  
12 this title that are in effect at the time of the review  
13 and that apply to the operations or activities of par-  
14 ticipants in the programs assisted under this title.  
15 The review and analysis may include a determina-  
16 tion of whether the regulation is duplicative, is no  
17 longer necessary, is inconsistent with other Federal  
18 requirements, or is overly burdensome. In con-  
19 ducting the review, the Advisory Committee shall  
20 pay specific attention to evaluating ways in which  
21 regulations under this title affecting institutions of  
22 higher education (other than institutions described  
23 in section 102(a)(1)(C)), that have received in each  
24 of the 2 most recent award years prior to the date  
25 of enactment of the Higher Education Amendments

1 of 2005 less than \$200,000 in funds through this  
2 title, may be improved, streamlined, or eliminated.

3 “(3) CONSULTATION.—

4 “(A) IN GENERAL.—In carrying out the  
5 review and analysis under paragraph (2), the  
6 Advisory Committee shall consult with the Sec-  
7 retary, relevant representatives of institutions  
8 of higher education, and individuals who have  
9 expertise and experience with the regulations  
10 issued under this title, in accordance with sub-  
11 paragraph (B).

12 “(B) REVIEW PANELS.—The Advisory  
13 Committee shall convene not less than 2 review  
14 panels of representatives of the groups involved  
15 in student financial assistance programs under  
16 this title who have experience and expertise in  
17 the regulations issued under this title to review  
18 the regulations under this title, and to provide  
19 recommendations to the Advisory Committee  
20 with respect to the review and analysis under  
21 paragraph (2). The panels shall be made up of  
22 experts in areas such as the operations of the  
23 financial assistance programs, the institutional  
24 eligibility requirements for the financial assist-  
25 ance programs, regulations not directly related

1 to the operations or the institutional eligibility  
2 requirements of the financial assistance pro-  
3 grams, and regulations for dissemination of in-  
4 formation to students about the financial assist-  
5 ance programs.

6 “(4) REPORTS TO CONGRESS.—The Advisory  
7 Committee shall submit, not later than 2 years after  
8 the completion of the negotiated rulemaking process  
9 required under section 492 resulting from the  
10 amendments to this Act made by the Higher Edu-  
11 cation Amendments of 2005, a report to the author-  
12 izing committees and the Secretary detailing the ex-  
13 pert panels’ findings and recommendations with re-  
14 spect to the review and analysis under paragraph  
15 (2).

16 “(5) ADDITIONAL SUPPORT.—The Secretary  
17 and the Inspector General of the Department shall  
18 provide such assistance and resources to the Advi-  
19 sory Committee as the Secretary and Inspector Gen-  
20 eral determine are necessary to conduct the review  
21 required by this subsection.

22 “(m) STUDY OF INNOVATIVE PATHWAYS TO BACCA-  
23 LAUREATE DEGREE ATTAINMENT.—

24 “(1) STUDY REQUIRED.—The Advisory Com-  
25 mittee shall conduct a study of the feasibility of in-

1       creasing baccalaureate degree attainment rates by  
2       reducing the costs and financial barriers to attaining  
3       a baccalaureate degree through innovative programs.

4           “(2) SCOPE OF STUDY.—The Advisory Com-  
5       mittee shall examine new and existing programs that  
6       promote baccalaureate degree attainment through  
7       innovative ways, such as dual or concurrent enroll-  
8       ment programs, changes made to the Federal Pell  
9       Grant program, simplification of the needs analysis  
10      process, compressed or modular scheduling, articula-  
11      tion agreements, and programs that allow 2-year in-  
12      stitutions of higher education to offer baccalaureate  
13      degrees.

14          “(3) REQUIRED ASPECTS OF THE STUDY.—In  
15      performing the study described in this subsection,  
16      the Advisory Committee shall examine the following  
17      aspects of such innovative programs:

18           “(A) The impact of such programs on bac-  
19      calaureate attainment rates.

20           “(B) The degree to which a student’s total  
21      cost of attaining a baccalaureate degree can be  
22      reduced by such programs.

23           “(C) The ways in which low- and mod-  
24      erate-income students can be specifically tar-  
25      geted by such programs.

1           “(D) The ways in which nontraditional  
2 students can be specifically targeted by such  
3 programs.

4           “(E) The cost-effectiveness for the Federal  
5 Government, States, and institutions of higher  
6 education to implement such programs.

7           “(4) CONSULTATION.—

8           “(A) IN GENERAL.—In performing the  
9 study described in this subsection the Advisory  
10 Committee shall consult with a broad range of  
11 interested parties in higher education, including  
12 parents, students, appropriate representatives  
13 of secondary schools and institutions of higher  
14 education, appropriate State administrators, ad-  
15 ministrators of dual enrollment programs, and  
16 appropriate officials from the Department.

17           “(B) CONGRESSIONAL CONSULTATION.—  
18 The Advisory Committee shall consult on a reg-  
19 ular basis with the authorizing committees in  
20 carrying out the study required by this section.

21           “(5) REPORTS TO CONGRESS.—

22           “(A) INTERIM REPORT.—The Advisory  
23 Committee shall prepare and submit to the au-  
24 thorizing committees and the Secretary 1 in-  
25 terim report, not later than 1 year after the

1 date of enactment of the Higher Education  
2 Amendments of 2005, describing the progress  
3 that has been made in conducting the study re-  
4 quired by this subsection and any preliminary  
5 findings on the topics identified under para-  
6 graph (2).

7 “(B) FINAL REPORT.—The Advisory Com-  
8 mittee shall, not later than 3 years after the  
9 date of enactment of the Higher Education  
10 Amendments of 2005, prepare and submit to  
11 the authorizing committees and the Secretary a  
12 final report on the study, including rec-  
13 ommendations for legislative, regulatory, and  
14 administrative changes based on findings re-  
15 lated to the topics identified under paragraph  
16 (2).”.

17 **SEC. 7447. REGIONAL MEETINGS.**

18 Section 492(a)(1) (20 U.S.C. 1098a(a)(1)) is amend-  
19 ed by inserting “State student grant agencies,” after “in-  
20 stitutions of higher education,”.

21 **SEC. 7448. YEAR 2000 REQUIREMENTS AT THE DEPART-**  
22 **MENT.**

23 (a) REPEAL.—Section 493A (20 U.S.C. 1098c) is re-  
24 pealed.

1 (b) REDESIGNATION.—Section 493B (20 U.S.C.  
2 1098d) is redesignated as section 493A.

3 **Subchapter H—Program Integrity**

4 **SEC. 7451. RECOGNITION OF ACCREDITING AGENCY OR AS-**  
5 **SOCIATION.**

6 Section 496 (200 U.S.C. 1099b) is amended—

7 (1) in subsection (a)—

8 (A) by striking paragraph (4) and insert-  
9 ing the following:

10 “(4)(A) such agency or association consistently  
11 applies and enforces standards that respect the stat-  
12 ed mission of the institution of higher education, in-  
13 cluding religious missions, and that ensure that the  
14 courses or programs of instruction, training, or  
15 study offered by the institution of higher education,  
16 including distance education courses or programs,  
17 are of sufficient quality to achieve, for the duration  
18 of the accreditation period, the stated objective for  
19 which the courses or the programs are offered; and

20 “(B) if such agency or association has or seeks  
21 to include within its scope of recognition the evalua-  
22 tion of the quality of institutions or programs offer-  
23 ing distance education, such agency or association  
24 shall, in addition to meeting the other requirements  
25 of this subpart, demonstrate to the Secretary that—

1           “(i) the agency or association’s standards  
2 effectively address the quality of an institution’s  
3 distance education in the areas identified in sec-  
4 tion 496(a)(5), except that the agency or asso-  
5 ciation shall not be required to have separate  
6 standards, procedures or policies for the evalua-  
7 tion of distance education institutions or pro-  
8 grams in order to meet the requirements of this  
9 subparagraph; and

10           “(ii) the agency or association requires an  
11 institution that offers distance education to  
12 have processes through which the institution es-  
13 tablishes that the student who registers in a  
14 distance education course or program is the  
15 same student who participates, completes and  
16 receives the academic credit;”;

17           (B) in paragraph (5), by striking subpara-  
18 graph (A) and inserting the following:

19           “(A) success with respect to student  
20 achievement in relation to the institution’s mis-  
21 sion, including—

22                   “(i) consideration of student academic  
23 achievement as determined by the institu-  
24 tion;

25                   “(ii) student retention;

1 “(iii) course and program completion;

2 “(iv) as appropriate, State licensing  
3 examinations;

4 “(v) as appropriate, job placement  
5 rates or enrollment in graduate or profes-  
6 sional programs; and

7 “(vi) as appropriate, other student  
8 performance information selected by the  
9 institution, particularly that information  
10 used by the institution to evaluate or  
11 strengthen its programs;”;

12 (C) by striking paragraph (6) and insert-  
13 ing the following:

14 “(6) such an agency or association shall estab-  
15 lish and apply review procedures throughout the ac-  
16 crediting process, including evaluation and with-  
17 drawal proceedings which comply with due process  
18 procedures that provide for—

19 “(A) adequate specification of require-  
20 ments and deficiencies at the institution of  
21 higher education or program examined;

22 “(B) an opportunity for a written response  
23 by any such institution to be included, prior to  
24 final action, in the evaluation and withdrawal  
25 proceedings;

1           “(C) upon the written request of an insti-  
2           tution, an opportunity for the institution to ap-  
3           peal any adverse action, including denial, with-  
4           drawal, suspension, or termination of accredita-  
5           tion, or placement on probation of an institu-  
6           tion, at a hearing prior to such action becoming  
7           final, before an appeals panel that—

8                   “(i) shall not include current members  
9                   of the agency or association’s underlying  
10                  decision-making body that made the ad-  
11                  verse decision; and

12                   “(ii) is subject to a conflict of interest  
13                  policy; and

14           “(D) the right to representation by counsel  
15           for such an institution during an appeal of the  
16           adverse action;” and

17           (D) by striking paragraph (8) and insert-  
18           ing the following:

19           “(8) such agency or association shall make  
20           available to the public and the State licensing or au-  
21           thorizing agency, and submit to the Secretary, a  
22           summary of agency or association actions,  
23           including—

24                   “(A) the award of accreditation or re-  
25                  accreditation of an institution;

1           “(B) final denial, withdrawal, suspension,  
2           or termination of accreditation, or placement on  
3           probation of an institution, and any findings  
4           made in connection with the action taken, to-  
5           gether with the official comments of the af-  
6           fected institution; and

7           “(C) any other adverse action taken with  
8           respect to an institution.”; and

9           (2) in subsection (c)—

10           (A) in paragraph (1), by inserting “, in-  
11           cluding those regarding distance education”  
12           after “their responsibilities”;

13           (B) by redesignating paragraphs (2)  
14           through (6) as paragraphs (5) through (9);

15           (C) by inserting after paragraph (1) (as  
16           amended by subparagraph (A)) the following:

17           “(2) ensures that the agency or association’s  
18           on-site evaluation for accreditation or reaccreditation  
19           includes review of the Federally required information  
20           the institution or program provides its current and  
21           prospective students;

22           “(3) monitors the growth of programs at insti-  
23           tutions that are experiencing significant enrollment  
24           growth;

1           “(4) requires an institution to submit a teach-  
2           out plan for approval to the accrediting agency upon  
3           the occurrence of any of the following events:

4                   “(A) The Department notifies the accred-  
5                   iting agency of an action against the institution  
6                   pursuant to section 487(d).

7                   “(B) The accrediting agency acts to with-  
8                   draw, terminate, or suspend the accreditation of  
9                   an institution.

10                   “(C) The institution notifies the accred-  
11                   iting agency that the institution intends to  
12                   cease operations.”;

13                   (D) in paragraph (8) (as redesignated by  
14                   subparagraph (B)), by striking “and” after the  
15                   semicolon;

16                   (E) in subparagraph (9) (as redesignated  
17                   by subparagraph (B)), by striking the period  
18                   and inserting “; and”; and

19                   (F) by adding at the end the following:

20                   “(10) confirms, as a part of the agency or asso-  
21                   ciation’s review for accreditation or reaccreditation,  
22                   that the institution has transfer of credit policies—

23                           “(A) that are publicly disclosed;

24                           “(B) that do not deny transfer of credit  
25                   based solely on the accreditation of the sending

1 institution, if the agency or association accred-  
 2 iting the sending institution is recognized by  
 3 the Secretary pursuant to this section; and

4 “(C) in which acceptance or denial of  
 5 transfer of credit is decided according to cri-  
 6 teria established in guidelines developed by the  
 7 institution’s admissions committee.”.

8 **SEC. 7452. ADMINISTRATIVE CAPACITY STANDARD.**

9 Section 498 (20 U.S.C. 1099c) is amended—

10 (1) in subsection (d)(1)(B), by inserting “and”  
 11 after the semicolon; and

12 (2) by adding at the end the following:

13 “(k) TREATMENT OF TEACH-OUTS AT ADDITIONAL  
 14 LOCATIONS.—

15 “(1) IN GENERAL.—A location of a closed insti-  
 16 tution of higher education shall be eligible as an ad-  
 17 ditional location of an eligible institution of higher  
 18 education, as defined pursuant to regulations of the  
 19 Secretary, for the purposes of a teach-out, if such  
 20 teach-out has been approved by the institution’s ac-  
 21 crediting agency.

22 “(2) SPECIAL RULE.—An institution of higher  
 23 education that conducts a teach-out through the es-  
 24 tablishment of an additional location described in  
 25 paragraph (1) shall be permitted to establish a per-

1       manent additional location at a closed institution  
2       and shall not be required—

3               “(A) to meet the requirements of sections  
4               102(b)(1)(E) and 102(c)(1)(C) for such addi-  
5               tional location; or

6               “(B) to assume the liabilities of the closed  
7               institution.”.

8       **SEC. 7453. PROGRAM REVIEW AND DATA.**

9       Section 498A(b) (20 U.S.C. 1099c-1(b)) is  
10       amended—

11           (1) in paragraph (4), by striking “and” after  
12       the semicolon;

13           (2) in paragraph (5) by striking the period and  
14       inserting a semicolon; and

15           (3) by adding at the end the following:

16           “(6) provide to an institution of higher edu-  
17       cation an adequate opportunity to review and re-  
18       spond to any program review report and relevant  
19       materials related to the report before any final pro-  
20       gram review is reached;

21           “(7) review and take into consideration an in-  
22       stitution of higher education’s response in any final  
23       program review; and

24           “(8) maintain and preserve at all times the con-  
25       fidentiality of any program review report until the

1 requirements of paragraphs (6) and (7) are met, and  
2 until a final program review is issued, other than to  
3 the extent required to comply with paragraph (5),  
4 except that the Secretary shall promptly disclose any  
5 and all program review reports to the institution of  
6 higher education under review.”.

## 7 **CHAPTER 6—DEVELOPING INSTITUTIONS**

### 8 **SEC. 7501. DEFINITIONS.**

9 Section 502(a) (20 U.S.C. 1101a(a)) is amended—

10 (1) in paragraph (5)—

11 (A) in subparagraph (A), by inserting  
12 “and” after the semicolon;

13 (B) in subparagraph (B), by striking “;  
14 and” and inserting a period; and

15 (C) by striking subparagraph (C); and

16 (2) by striking paragraph (7).

### 17 **SEC. 7502. AUTHORIZED ACTIVITIES.**

18 Section 503(b) (20 U.S.C. 1101b(b)) is amended—

19 (1) by redesignating paragraphs (6) through  
20 (14) as paragraphs (8) through (16), respectively;

21 (2) in paragraph (5), by inserting “, including  
22 innovative, customized remedial education and  
23 English language instruction courses designed to  
24 help retain students and move the students rapidly

1 into core courses and through program completion”  
2 before the period at the end; and

3 (3) by inserting after paragraph (5) the fol-  
4 lowing:

5 “(6) Education or counseling services designed  
6 to improve the financial literacy and economic lit-  
7 eracy of students or the students’ parents.

8 “(7) Articulation agreements and student sup-  
9 port programs designed to facilitate the transfer  
10 from 2-year to 4-year institutions.”.

11 **SEC. 7503. DURATION OF GRANT.**

12 Section 504(a) (20 U.S.C. 1101e(a)) is amended to  
13 read as follows:

14 “(a) AWARD PERIOD.—The Secretary may award a  
15 grant to a Hispanic-serving institution under this title for  
16 5 years.”.

17 **SEC. 7504. POSTBACCALAUREATE OPPORTUNITIES FOR**  
18 **HISPANIC AMERICANS.**

19 (a) ESTABLISHMENT OF PROGRAM.—Title V (20  
20 U.S.C. 1101 et seq.) is amended—

21 (1) by redesignating part B as part C;

22 (2) by redesignating sections 511 through 518  
23 as sections 521 through 528, respectively; and

24 (3) by inserting after section 505 the following:

1     **“PART B—PROMOTING POSTBACCALAUREATE**  
2     **OPPORTUNITIES FOR HISPANIC AMERICANS**

3     **“SEC. 511. PROGRAM AUTHORITY AND ELIGIBILITY.**

4         “(a) PROGRAM AUTHORIZED.—Subject to the avail-  
5 ability of funds appropriated to carry out this part, the  
6 Secretary shall award grants, on a competitive basis, to  
7 eligible institutions to enable the eligible institutions to  
8 carry out the authorized activities described in section  
9 512.

10       “(b) ELIGIBILITY.—For the purposes of this part, an  
11 ‘eligible institution’ means an institution of higher edu-  
12 cation that—

13             “(1) is a Hispanic-serving institution (as de-  
14 fined in section 502); and

15             “(2) offers a postbaccalaureate certificate or de-  
16 gree granting program.

17     **“SEC. 512. AUTHORIZED ACTIVITIES.**

18         “Grants awarded under this part shall be used for  
19 1 or more of the following activities:

20             “(1) Purchase, rental, or lease of scientific or  
21 laboratory equipment for educational purposes, in-  
22 cluding instructional and research purposes.

23             “(2) Construction, maintenance, renovation,  
24 and improvement in classroom, library, laboratory,  
25 and other instructional facilities, including purchase

1 or rental of telecommunications technology equip-  
2 ment or services.

3 “(3) Purchase of library books, periodicals,  
4 technical and other scientific journals, microfilm,  
5 microfiche, and other educational materials, includ-  
6 ing telecommunications program materials.

7 “(4) Support for needy postbaccalaureate stu-  
8 dents, including outreach, academic support services,  
9 mentoring, scholarships, fellowships, and other fi-  
10 nancial assistance, to permit the enrollment of such  
11 students in postbaccalaureate certificate and degree  
12 granting programs.

13 “(5) Support of faculty exchanges, faculty de-  
14 velopment, faculty research, curriculum development,  
15 and academic instruction.

16 “(6) Creating or improving facilities for Inter-  
17 net or other distance learning academic instruction  
18 capabilities, including purchase or rental of tele-  
19 communications technology equipment or services.

20 “(7) Collaboration with other institutions of  
21 higher education to expand postbaccalaureate certifi-  
22 cate and degree offerings.

23 “(8) Other activities proposed in the application  
24 submitted pursuant to section 513 that are approved

1 by the Secretary as part of the review and accept-  
2 ance of such application.

3 **“SEC. 513. APPLICATION AND DURATION.**

4 “(a) APPLICATION.—Any eligible institution may  
5 apply for a grant under this part by submitting an applica-  
6 tion to the Secretary at such time and in such manner  
7 as the Secretary may require. Such application shall dem-  
8 onstrate how the grant funds will be used to improve  
9 postbaccalaureate education opportunities for Hispanic  
10 and low-income students and will lead to such students’  
11 greater financial independence.

12 “(b) DURATION.—Grants under this part shall be  
13 awarded for a period not to exceed 5 years.

14 “(c) LIMITATION.—The Secretary may not award  
15 more than 1 grant under this part in any fiscal year to  
16 any Hispanic-serving institution.”.

17 **SEC. 7505. APPLICATIONS.**

18 Section 521(b)(1)(A) (as redesignated by section  
19 7504(a)(2)) (20 U.S.C. 1103(b)(1)(A)) is amended by  
20 striking “subsection (b)” and inserting “subsection (c)”.

21 **SEC. 7506. COOPERATIVE ARRANGEMENTS.**

22 Section 524(a) (as redesignated by section  
23 7504(a)(2)) (20 U.S.C. 1103c(a)) is amended by striking  
24 “section 503” and inserting “sections 503 and 512”.

1 **SEC. 7507. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 528(a) (as redesignated by section  
3 7504(a)(2)) (20 U.S.C. 1103g(a)) is amended—

4 (1) by inserting “part A of” after “carry out”;

5 (2) by striking “\$62,500,000 for fiscal year  
6 1999” and all that follows through the period and  
7 inserting “such sums as may be necessary for fiscal  
8 year 2006 and each of the 5 succeeding fiscal  
9 years.”;

10 (3) by striking “(a) AUTHORIZATIONS.—There  
11 are” and inserting the following:

12 “(a) AUTHORIZATIONS.—

13 “(1) PART A.—There are”; and

14 (4) by adding at the end the following:

15 “(2) PART B.—There are authorized to be ap-  
16 propriated to carry out part B of this title such  
17 sums as may be necessary for fiscal year 2006 and  
18 each of the 5 succeeding fiscal years.”.

19 **CHAPTER 7—INTERNATIONAL EDUCATION**  
20 **PROGRAMS**

21 **SEC. 7601. FINDINGS.**

22 Section 601 (20 U.S.C. 1121) is amended—

23 (1) in the section heading, by striking “**AND**  
24 **PURPOSES**” and inserting “; **PURPOSES; CON-**  
25 **SULTATION; SURVEY**”

1           (2) in subsection (a)(3), by striking “post-Cold  
2       War”;

3           (3) in subsection (b)(1)(D), by inserting “, in-  
4       cluding through linkages with overseas institutions”  
5       before the semicolon; and

6           (4) by adding at the end the following:

7       “(c) CONSULTATION.—The Secretary shall, prior to  
8       requesting applications for funding under this title during  
9       each grant cycle, consult with and receive recommenda-  
10      tions regarding national need for expertise in foreign lan-  
11      guages and world regions from the head official, or a des-  
12      ignee of such head official, of the National Security Coun-  
13      cil, the Department of Homeland Security, the Depart-  
14      ment of Defense, the Department of State, the Federal  
15      Bureau of Investigation, the Department of Labor, and  
16      the Department of Commerce, the Director of National  
17      Intelligence, and other relevant agencies. These entities  
18      shall provide information to the Secretary regarding how  
19      the entities utilize expertise and resources provided by  
20      grantees under this title. The Secretary shall take into ac-  
21      count such recommendations and information when re-  
22      questing applications for funding under this title, and  
23      shall make available to applicants a list of areas identified  
24      as areas of national need.

1       “(d) SURVEY.—The Secretary shall assist grantees in  
 2 developing a survey to administer to students who have  
 3 participated in programs under this title to determine  
 4 postparticipation placement. All grantees, where applica-  
 5 ble, shall administer such survey not less often than annu-  
 6 ally and report such data to the Secretary.”.

7 **SEC. 7602. GRADUATE AND UNDERGRADUATE LANGUAGE**  
 8 **AND AREA CENTERS AND PROGRAMS.**

9 Section 602 (20 U.S.C. 1122) is amended—

10           (1) in subsection (a)—

11                   (A) in paragraph (2)—

12                           (i) in subparagraph (G), by striking  
 13                           “and” after the semicolon;

14                           (ii) in subparagraph (H), by striking  
 15                           the period and inserting “; and”; and

16                           (iii) by adding at the end the fol-  
 17                           lowing:

18                           “(I) support for instructors of the less  
 19                           commonly taught languages.”; and

20                   (B) in paragraph (4)—

21                           (i) by redesignating subparagraphs  
 22                           (C) through (E) as subparagraphs (D)  
 23                           through (F), respectively;

24                           (ii) by inserting after subparagraph  
 25                           (B) the following:

1           “(C) Programs of linkage or outreach be-  
2           tween or among—

3                   “(i) foreign language, area studies, or  
4                   other international fields; and

5                   “(ii) State educational agencies or  
6                   local educational agencies.”; and

7                   (iii) in subparagraph (F) (as redesignig-  
8                   nated by clause (i)), by striking “and (D)”  
9                   and inserting “(D), and (E)”;

10           (2) in subsection (b)—

11                   (A) in the subsection heading, by striking  
12                   “GRADUATE”; and

13                   (B) by striking paragraph (2) and insert-  
14                   ing the following:

15                   “(2) ELIGIBLE STUDENTS.—A student receiv-  
16                   ing a stipend described in paragraph (1) shall be  
17                   engaged—

18                           “(A) in an instructional program with stat-  
19                           ed performance goals for functional foreign lan-  
20                           guage use or in a program developing such per-  
21                           formance goals, in combination with area stud-  
22                           ies, international studies, or the international  
23                           aspects of a professional studies program; and

1           “(B)(i) in the case of an undergraduate  
2 student, in the intermediate or advanced study  
3 of a less commonly taught language; or

4           “(ii) in the case of a graduate student, in  
5 graduate study in connection with a program  
6 described in subparagraph (A), including—

7                   “(I) predissertation level study;

8                   “(II) preparation for dissertation re-  
9 search;

10                   “(III) dissertation research abroad; or

11                   “(IV) dissertation writing.”;

12           (3) by striking subsection (d) and inserting the  
13 following:

14           “(d) ALLOWANCES.—

15                   “(1) GRADUATE LEVEL RECIPIENTS.—A sti-  
16 pend awarded to a graduate level recipient may in-  
17 clude allowances for dependents and for travel for  
18 research and study in the United States and abroad.

19                   “(2) UNDERGRADUATE LEVEL RECIPIENTS.—A  
20 stipend awarded to an undergraduate level recipient  
21 may include an allowance for educational programs  
22 in the United States or educational programs abroad  
23 that—

24                   “(A) are closely linked to the overall goals  
25 of the recipient’s course of study; and

1           “(B) have the purpose of promoting for-  
2           eign language fluency and knowledge of foreign  
3           cultures.”; and

4           (4) by adding at the end the following:

5           “(e) APPLICATION.—Each institution or combination  
6 of institutions desiring a grant under this section shall  
7 submit an application to the Secretary at such time, in  
8 such manner, and accompanied by such information and  
9 assurances as the Secretary may require. Each application  
10 shall include an explanation of how the activities funded  
11 by the grant will reflect diverse perspectives and a wide  
12 range of views and generate debate on world regions and  
13 international affairs. Each application shall also describe  
14 how the applicant will address disputes regarding whether  
15 activities funded under the application reflect diverse per-  
16 spectives and a wide range of views. Each application shall  
17 also include a description of how the applicant will encour-  
18 age government service in areas of national need as identi-  
19 fied by the Secretary.”.

20 **SEC. 7603. UNDERGRADUATE INTERNATIONAL STUDIES**  
21 **AND FOREIGN LANGUAGE PROGRAMS.**

22           Section 604 (20 U.S.C. 1124) is amended—

23           (1) in subsection (a)—

24           (A) in paragraph (2)—

1 (i) by redesignating subparagraphs (I)  
2 through (M) as subparagraphs (J) through  
3 (N), respectively; and

4 (ii) by inserting after subparagraph  
5 (H) the following:

6 “(I) providing subgrants to undergraduate  
7 students for educational programs abroad  
8 that—

9 “(i) are closely linked to the overall  
10 goals of the program for which the grant  
11 is awarded; and

12 “(ii) have the purpose of promoting  
13 foreign language fluency and knowledge of  
14 foreign cultures;”; and

15 (B) in paragraph (7)—

16 (i) in subparagraph (C), by striking  
17 “and” after the semicolon;

18 (ii) in subparagraph (D), by striking  
19 the period at the end and inserting a semi-  
20 colon; and

21 (iii) by adding at the end the fol-  
22 lowing:

23 “(E) an explanation of how the activities  
24 funded by the grant will reflect diverse perspec-  
25 tives and a wide range of views and generate

1 debate on world regions and international af-  
 2 fairs, where applicable;

3 “(F) a description of how the applicant  
 4 will address disputes regarding whether the ac-  
 5 tivities funded under the application reflect di-  
 6 verse perspectives and a wide range of views;  
 7 and

8 “(G) a description of how the applicant  
 9 will encourage government service in areas of  
 10 national need as identified by the Secretary.”;  
 11 and

12 (2) in subsection (c)—

13 (A) by striking “FUNDING SUPPORT.—The  
 14 Secretary” and inserting “FUNDING RULES.—  
 15 “(1) THE SECRETARY.—The Secretary”;

16 (B) by striking “10” and inserting “20”;  
 17 and

18 (C) by adding at the end the following:

19 “(2) GRANTEES.—Of the total amount of grant  
 20 funds awarded to a grantee under this section, the  
 21 grantee may use not more than 10 percent of such  
 22 funds for the activity described in subsection  
 23 (a)(2)(I).”.

24 **SEC. 7604. RESEARCH; STUDIES.**

25 Section 605(a) (20 U.S.C. 1125(a)) is amended—

1           (1) in paragraph (8), by striking “and” after  
2           the semicolon;

3           (2) in paragraph (9), by striking the period and  
4           inserting a semicolon; and

5           (3) by adding at the end the following:

6           “(10) evaluation of the extent to which pro-  
7           grams assisted under this title reflect diverse per-  
8           spectives and a wide range of views and generate de-  
9           bate on world regions and international affairs;

10          “(11) the systematic collection, analysis, and  
11          dissemination of data that contribute to achieving  
12          the purposes of this part; and

13          “(12) support for programs or activities to  
14          make data collected, analyzed, or disseminated under  
15          this section publicly available and easy to under-  
16          stand.”.

17 **SEC. 7605. TECHNOLOGICAL INNOVATION AND COOPERA-**  
18 **TION FOR FOREIGN INFORMATION ACCESS.**

19          Section 606 (20 U.S.C. 1126) is amended—

20           (1) in subsection (a)—

21           (A) by striking “new electronic tech-  
22           nologies” and insert “electronic technologies”;

23           (B) by inserting “from foreign sources”  
24           after “disseminate information”;

1 (C) by striking “AUTHORITY.—The Sec-  
2 retary” and insert “AUTHORITY.—

3 “(1) IN GENERAL.—The Secretary”; and

4 (D) by adding at the end the following:

5 “(2) PARTNERSHIPS WITH NOT-FOR-PROFIT  
6 EDUCATIONAL ORGANIZATIONS.—The Secretary may  
7 award grants under this section to carry out the ac-  
8 tivities authorized under this section to the fol-  
9 lowing:

10 “(A) An institution of higher education.

11 “(B) A public or nonprofit private library.

12 “(C) A consortium of an institution of  
13 higher education and 1 or more of the fol-  
14 lowing:

15 “(i) Another institution of higher edu-  
16 cation.

17 “(ii) A library.

18 “(iii) A not-for-profit educational or-  
19 ganization.”;

20 (2) in subsection (b)—

21 (A) in paragraph (1), by striking “to facili-  
22 tate access to” and inserting “to acquire, facili-  
23 tate access to,”;

24 (B) in paragraph (2), by inserting “or  
25 standards for” after “means of”;

1 (C) in paragraph (6), by striking “and”  
2 after the semicolon;

3 (D) in paragraph (7), by striking the pe-  
4 riod and inserting a semicolon; and

5 (E) by adding at the end the following:

6 “(8) to establish linkages to facilitate carrying  
7 out the activities described in this subsection  
8 between—

9 “(A) the institutions of higher education,  
10 libraries, and consortia receiving grants under  
11 this section; and

12 “(B) institutions of higher education, not-  
13 for-profit educational organizations, and librar-  
14 ies overseas; and

15 “(9) to carry out other activities that the Sec-  
16 retary determines are consistent with the purpose of  
17 the grants or contracts awarded under this section.”;  
18 and

19 (3) in subsection (e), by striking “institution or  
20 consortium” and inserting “institution of higher  
21 education, library, or consortium”.

22 **SEC. 7606. SELECTION OF CERTAIN GRANT RECIPIENTS.**

23 Section 607 (20 U.S.C. 1127) is amended—

24 (1) in subsection (a), by striking “evaluates the  
25 applications for comprehensive and undergraduate

1 language and area centers and programs.” and in-  
2 serting “evaluates—

3 “(1) the applications for comprehensive foreign  
4 language and area or international studies centers  
5 and programs; and

6 “(2) the applications for undergraduate foreign  
7 language and area or international studies centers  
8 and programs.”; and

9 (2) in subsection (b), by adding at the end the  
10 following: “The Secretary shall also consider an ap-  
11 plicant’s record of sending students into public serv-  
12 ice and an applicant’s stated efforts to increase the  
13 number of students that go into public service.”.

14 **SEC. 7607. AMERICAN OVERSEAS RESEARCH CENTERS.**

15 Section 609 (20 U.S.C. 1128a) is amended by adding  
16 at the end the following:

17 “(e) APPLICATION.—Each center desiring a grant  
18 under this section shall submit an application to the Sec-  
19 retary at such time, in such manner, and accompanied by  
20 such information and assurances as the Secretary may re-  
21 quire. Each application shall include how the activities  
22 funded by the grant will reflect diverse perspectives and  
23 a wide range of views and generate debate on world re-  
24 gions and international affairs, where applicable. Each ap-  
25 plication shall also describe how the applicant will address

1 disputes regarding whether the activities funded under the  
2 application reflect diverse perspectives and a wide range  
3 of views.”.

4 **SEC. 7608. AUTHORIZATION OF APPROPRIATIONS FOR**  
5 **INTERNATIONAL AND FOREIGN LANGUAGE**  
6 **STUDIES.**

7 Section 610 (20 U.S.C. 1128b) is amended by strik-  
8 ing “\$80,000,000 for fiscal year 1999” and all that fol-  
9 lows through the period and inserting “such sums as may  
10 be necessary for fiscal year 2006 and each of the 5 suc-  
11 ceeding fiscal years.”.

12 **SEC. 7609. CENTERS FOR INTERNATIONAL BUSINESS EDU-**  
13 **CATION.**

14 Section 612(f) (20 U.S.C. 1130–1(f)) is amended—

15 (1) in paragraph (3), by striking “and” after  
16 the semicolon;

17 (2) in paragraph (4), by striking the period at  
18 the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(5) assurances that activities funded by the  
21 grant will reflect diverse perspectives and a wide  
22 range of views and generate debate on world regions  
23 and international affairs, where applicable.”.

1 **SEC. 7610. EDUCATION AND TRAINING PROGRAMS.**

2 Section 613(c) (20 U.S.C. 1130a(c)) is amended by  
3 adding at the end the following: “Each such application  
4 shall include an assurance that, where applicable, the ac-  
5 tivities funded by the grant will reflect diverse perspectives  
6 and a wide range of views on world regions and inter-  
7 national affairs.”.

8 **SEC. 7611. AUTHORIZATION OF APPROPRIATIONS FOR**  
9 **BUSINESS AND INTERNATIONAL EDUCATION**  
10 **PROGRAMS.**

11 Section 614 (20 U.S.C. 1130b) is amended—

12 (1) in subsection (a), by striking “\$11,000,000  
13 for fiscal year 1999” and all that follows through  
14 “fiscal years” and inserting “such sums as may be  
15 necessary for fiscal year 2006 and each of the 5 suc-  
16 ceeding fiscal years”; and

17 (2) in subsection (b), by striking “\$7,000,000  
18 for fiscal year 1999” and all that follows through  
19 “fiscal years,” and inserting “such sums as may be  
20 necessary for fiscal year 2006 and each of the 5 suc-  
21 ceeding fiscal years”.

22 **SEC. 7612. MINORITY FOREIGN SERVICE PROFESSIONAL**  
23 **DEVELOPMENT PROGRAM.**

24 Section 621 (20 U.S.C. 1131) is amended—

25 (1) in subsection (c), by adding at the end the  
26 following: “Each application shall include a descrip-

1 tion of how the activities funded by the grant will re-  
 2 flect diverse perspectives and a wide range of views  
 3 on world regions and international affairs, where ap-  
 4 plicable.”; and

5 (2) in subsection (e)—

6 (A) by striking “MATCH REQUIRED.—The  
 7 eligible” and inserting “MATCHING FUNDS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),  
 9 the eligible”; and

10 (B) by adding at the end the following:

11 “(2) WAIVER.—The Secretary may waive the  
 12 requirement of paragraph (1) for an eligible recipi-  
 13 ent if the Secretary determines such waiver is appro-  
 14 priate.”.

15 **SEC. 7613. INSTITUTIONAL DEVELOPMENT.**

16 Section 622 (20 U.S.C. 1131–1) is amended—

17 (1) in subsection (a)—

18 (A) by striking “Tribally Controlled Col-  
 19 leges or Universities” and inserting “tribally  
 20 controlled colleges or universities”; and

21 (B) by striking “international affairs pro-  
 22 grams.” and inserting “international affairs,  
 23 international business, and foreign language  
 24 study programs, including the teaching of for-  
 25 eign languages, at such colleges, universities,

1 and institutions, respectively, through increased  
2 collaboration with institutions of higher edu-  
3 cation that receive funding under this title.”;

4 and

5 (2) in subsection (c)—

6 (A) by striking paragraphs (1) and (3);

7 and

8 (B) by redesignating paragraphs (2) and

9 (4) as paragraphs (1) and (2), respectively.

10 **SEC. 7614. STUDY ABROAD PROGRAM.**

11 Section 623(a) (20 U.S.C. 1131a(a)) is amended—

12 (1) by striking “as defined in section 322 of  
13 this Act”; and

14 (2) by striking “tribally controlled Indian com-  
15 munity colleges as defined in the Tribally Controlled  
16 Community College Assistance Act of 1978” and in-  
17 serting “tribally controlled colleges or universities”.

18 **SEC. 7615. ADVANCED DEGREE IN INTERNATIONAL RELA-**

19 **TIONS.**

20 Section 624 (20 U.S.C. 1131b) is amended—

21 (1) in the section heading, by striking “**MAS-**  
22 **TERS**” and inserting “**ADVANCED**”;

23 (2) in the first sentence, by inserting “, and in  
24 exceptional circumstances, a doctoral degree,” after  
25 “masters degree”;

1           (3) in the second sentence, by striking “masters  
2 degree” and inserting “advanced degree”; and

3           (4) in the fourth sentence, by striking “United  
4 States” and inserting “United States.”.

5 **SEC. 7616. INTERNSHIPS.**

6 Section 625 (20 U.S.C. 1131c) is amended—

7           (1) in subsection (a)—

8               (A) by striking “as defined in section 322  
9 of this Act”;

10              (B) by striking “tribally controlled Indian  
11 community colleges as defined in the Tribally  
12 Controlled Community College Assistance Act  
13 of 1978” and inserting “tribally controlled col-  
14 leges or universities”;

15              (C) by striking “an international” and in-  
16 serting “international,”; and

17              (D) by striking “the United States Infor-  
18 mation Agency” and inserting “the Department  
19 of State”; and

20           (2) in subsection (c)(1)—

21               (A) in subparagraph (E), by inserting  
22 “and” after the semicolon;

23               (B) in subparagraph (F), by striking “;  
24 and” and inserting a period; and

25               (C) by striking subparagraph (G).

1 **SEC. 7617. FINANCIAL ASSISTANCE.**

2 Part C of title VI (20 U.S.C. 1131 et seq.) is further  
3 amended—

4 (1) by redesignating sections 626, 627, and 628  
5 as sections 627, 628, and 629, respectively; and

6 (2) by inserting after section 625 the following:

7 **“SEC. 626. FINANCIAL ASSISTANCE.**

8 “(a) **AUTHORITY.**—The Institute may provide finan-  
9 cial assistance, in the form of summer stipends described  
10 in subsection (b) and Ralph Bunche scholarship assistance  
11 described in subsection (c), to needy students to facilitate  
12 the participation of the students in the Institute’s pro-  
13 grams under this part.

14 “(b) **SUMMER STIPENDS.**—

15 “(1) **REQUIREMENTS.**—A student receiving a  
16 summer stipend under this section shall use such sti-  
17 pend to defray the student’s cost of participation in  
18 a summer institute program funded under this part,  
19 including the costs of travel, living, and educational  
20 expenses necessary for the student’s participation in  
21 such program.

22 “(2) **AMOUNT.**—A summer stipend awarded to  
23 a student under this section shall not exceed \$3,000  
24 per summer.

25 “(c) **RALPH BUNCHE SCHOLARSHIP.**—

1           “(1) REQUIREMENTS.—A student receiving a  
2       Ralph Bunche scholarship under this section—

3           “(A) shall be a full-time student at an in-  
4       stitution of higher education who is accepted  
5       into a program funded under this part; and

6           “(B) shall use such scholarship to pay  
7       costs related to the cost of attendance, as de-  
8       fined in section 472, at the institution of higher  
9       education in which the student is enrolled.

10          “(2) AMOUNT AND DURATION.—A Ralph  
11       Bunche scholarship awarded to a student under this  
12       section shall not exceed \$5,000 per academic year.”.

13       **SEC. 7618. REPORT.**

14       Section 627 (as redesignated by section 7617(1)) (20  
15       U.S.C. 1131d) is amended by striking “annually” and in-  
16       serting “biennially”.

17       **SEC. 7619. GIFTS AND DONATIONS.**

18       Section 628 (as redesignated by section 7617(1)) (20  
19       U.S.C. 1131e) is amended by striking “annual report de-  
20       scribed in section 626” and inserting “biennial report de-  
21       scribed in section 627”.

1 **SEC. 7620. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
2 **INSTITUTE FOR INTERNATIONAL PUBLIC**  
3 **POLICY.**

4 Section 629 (as redesignated by section 7617(1)) (20  
5 U.S.C. 1131f) is amended by striking “\$10,000,000 for  
6 fiscal year 1999” and all that follows through the period  
7 and inserting “such sums as may be necessary for fiscal  
8 year 2006 and each of the 5 succeeding fiscal years.”.

9 **SEC. 7621. DEFINITIONS.**

10 Section 631 (20 U.S.C. 1132) is amended—

11 (1) by redesignating paragraphs (2), (3), (4),  
12 (5), (6), (7), (8), and (9), as paragraphs (8), (5),  
13 (9), (2), (11), (3), (7), and (4), respectively;

14 (2) in paragraph (2), as redesignated by para-  
15 graph (1), by striking “comprehensive language and  
16 area center” and inserting “comprehensive foreign  
17 language and area or international studies center”;

18 (3) in paragraph (11), as redesignated by para-  
19 graph (1), by striking “undergraduate language and  
20 area center” and inserting “undergraduate foreign  
21 language and area or international studies center”;

22 (4) in paragraph (3), as redesignated by para-  
23 graph (1), by striking the first occurrence of the  
24 term “critical languages” and inserting “critical for-  
25 eign languages”;

1 (5) in paragraph (7), as redesignated by para-  
2 graph (1), by striking “and” after the semicolon;

3 (6) in paragraph (4), as redesignated by para-  
4 graph (1), by striking the period at the end and in-  
5 serting a semicolon;

6 (7) by inserting after paragraph (5), as redesi-  
7 gated by paragraph (1), the following:

8 “(6) the term ‘historically Black college and  
9 university’ has the meaning given the term ‘part B  
10 institution’ in section 322;” and

11 (8) by inserting after paragraph (9), as redesi-  
12 gated by paragraph (1), the following:

13 “(10) the term ‘tribally controlled college or  
14 university’ has the meaning given the term in sec-  
15 tion 2 of the Tribally Controlled College or Univer-  
16 sity Assistance Act of 1978 (25 U.S.C. 1801); and”.

17 **SEC. 7622. ASSESSMENT AND ENFORCEMENT.**

18 Part D of title VI (20 U.S.C. 1132) is amended by  
19 adding at the end the following:

20 **“SEC. 632. ASSESSMENT; ENFORCEMENT; RULE OF CON-  
21 STRUCTION.**

22 “(a) IN GENERAL.—The Secretary is authorized to  
23 assess and ensure compliance with all the conditions and  
24 terms of grants provided under this title. If a complaint  
25 regarding activities funded under this title is not resolved

1 under the process outlined in the relevant grantee’s appli-  
 2 cation, and such complaint is filed with the Department,  
 3 the Secretary shall be notified, and is authorized, when  
 4 circumstances warrant, to immediately suspend future  
 5 funding for the grant pending resolution of such dispute.  
 6 Such resolution shall not exceed 60 days. The Secretary  
 7 shall take the outcomes of such complaints into account  
 8 when determining the renewal of grants.

9 “(b) **RULE OF CONSTRUCTION.**—Nothing in this title  
 10 shall be construed to authorize the Secretary to mandate,  
 11 direct, or control an institution of higher education’s spe-  
 12 cific instructional content, curriculum, or program of in-  
 13 struction.

14 **“SEC. 633. EVALUATION, OUTREACH, AND INFORMATION.**

15 “The Secretary may use not more than 1 percent of  
 16 the funds made available under this title to carry out pro-  
 17 gram evaluation, national outreach, and information dis-  
 18 semination activities relating to the programs authorized  
 19 under this title.”.

20 **CHAPTER 8—GRADUATE AND POSTSEC-**  
 21 **ONDARY IMPROVEMENT PROGRAMS**

22 **SEC. 7701. PURPOSE.**

23 Section 700(1)(B)(i) (20 U.S.C. 1133(1)(B)(i)) is  
 24 amended by inserting “, including those areas critical to  
 25 United States national and homeland security needs such

1 as mathematics, science, and engineering” before the  
2 semicolon at the end.

3 **SEC. 7702. ALLOCATION OF JACOB K. JAVITS FELLOW-**  
4 **SHIPS.**

5 Section 702(a)(1) (20 U.S.C. 1134a(a)(1)) is amend-  
6 ed to read as follows:

7 “(1) APPOINTMENT.—

8 “(A) IN GENERAL.—The Secretary shall  
9 appoint a Jacob K. Javits Fellows Program  
10 Fellowship Board (referred to in this subpart as  
11 the ‘Board’) consisting of 9 individuals rep-  
12 resentative of both public and private institu-  
13 tions of higher education who are especially  
14 qualified to serve on the Board.

15 “(B) QUALIFICATIONS.—In making ap-  
16 pointments under subparagraph (A), the Sec-  
17 retary shall—

18 “(i) give due consideration to the ap-  
19 pointment of individuals who are highly re-  
20 spected in the academic community;

21 “(ii) assure that individuals appointed  
22 to the Board are broadly representative of  
23 a range of disciplines in graduate edu-  
24 cation in arts, humanities, and social  
25 sciences;



1 tional Science Foundation, the Department of Defense,  
2 the Department of Homeland Security, the National Acad-  
3 emy of Sciences, and the Bureau of Labor Statistics, the  
4 Secretary shall designate areas of national need. In mak-  
5 ing such designations, the Secretary shall take into  
6 consideration—

7           “(1) the extent to which the interest in the area  
8           is compelling;

9           “(2) the extent to which other Federal pro-  
10          grams support postbaccalaureate study in the area  
11          concerned;

12          “(3) an assessment of how the program may  
13          achieve the most significant impact with available re-  
14          sources; and

15          “(4) an assessment of current and future pro-  
16          fessional workforce needs of the United States.”.

17 **SEC. 7706. AWARDS TO GRADUATE STUDENTS.**

18          Section 714 (20 U.S.C. 1135c) is amended—

19               (1) in subsection (b)—

20                       (A) by striking “1999–2000” and inserting  
21                       “2006–2007”; and

22                       (B) by striking “graduate fellowships” and  
23                       inserting “Graduate Research Fellowship Pro-  
24                       gram”; and

25               (2) in subsection (c)—

1 (A) by striking “716(a)” and inserting  
2 “715(a)”; and

3 (B) by striking “714(b)(2)” and inserting  
4 “713(b)(2)”.

5 **SEC. 7707. ADDITIONAL ASSISTANCE FOR COST OF EDU-**  
6 **CATION.**

7 Section 715(a)(1) (20 U.S.C. 1135d(a)(1)) is  
8 amended—

9 (1) by striking “1999–2000” and inserting  
10 “2006–2007”; and

11 (2) by striking “1998–1999” and inserting  
12 “2005–2006”.

13 **SEC. 7708. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
14 **GRADUATE ASSISTANCE IN AREAS OF NA-**  
15 **TIONAL NEED PROGRAM.**

16 Section 716 (20 U.S.C. 1135e) is amended by strik-  
17 ing “\$35,000,000 for fiscal year 1999” and all that fol-  
18 lows through the period and inserting “such sums as may  
19 be necessary for fiscal year 2006 and each of the 5 suc-  
20 ceeding fiscal years to carry out this subpart.”.

21 **SEC. 7709. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
22 **THURGOOD MARSHALL LEGAL EDUCATIONAL**  
23 **OPPORTUNITY PROGRAM.**

24 Section 721(h) (20 U.S.C. 1136(h)) is amended by  
25 striking “\$5,000,000 for fiscal year 1999” and all that

1 follows through the period and inserting “such sums as  
2 may be necessary for fiscal year 2006 and each of the 5  
3 succeeding fiscal years.”.

4 **SEC. 7710. FUND FOR THE IMPROVEMENT OF POSTSEC-**  
5 **ONDARY EDUCATION.**

6 Section 741(a) (20 U.S.C. 1138(a)) is amended—

7 (1) by striking paragraph (3) and inserting the  
8 following:

9 “(3) the establishment and continuation of in-  
10 stitutions, programs, consortia, collaborations, and  
11 other joint efforts based on the technology of com-  
12 munications, including those efforts that utilize dis-  
13 tance education and technological advancements to  
14 educate and train postsecondary students (including  
15 health professionals serving medically underserved  
16 populations);”;

17 (2) in paragraph (7), by striking “and” after  
18 the semicolon;

19 (3) in paragraph (8), by striking the period at  
20 the end and inserting a semicolon; and

21 (4) by adding at the end the following:

22 “(9) the introduction of reforms in remedial  
23 education, including English language instruction, to  
24 customize remedial courses to student goals and help

1 students progress rapidly from remedial courses into  
2 core courses and through program completion;

3 “(10) the creation of consortia that join diverse  
4 institutions of higher education for the purpose of  
5 integrating curricular and co-curricular interdiscipli-  
6 nary study; and

7 “(11) providing support and assistance to pro-  
8 grams implementing integrated education reform  
9 services in order to improve secondary school grad-  
10 uation and college attendance and completion rates  
11 for disadvantaged students.”.

12 **SEC. 7711. SPECIAL PROJECTS.**

13 Section 744(c) (20 U.S.C. 1138c) is amended to read  
14 as follows:

15 “(c) AREAS OF NATIONAL NEED.—Areas of national  
16 need shall include, at a minimum, the following:

17 “(1) Institutional restructuring to improve  
18 learning and promote productivity, efficiency, quality  
19 improvement, and cost and price control.

20 “(2) Improvements in academic instruction and  
21 student learning, including efforts designed to assess  
22 the learning gains made by postsecondary students.

23 “(3) Articulation between 2- and 4-year institu-  
24 tions of higher education, including developing inno-  
25 vative methods for ensuring the successful transfer

1 of students from 2- to 4-year institutions of higher  
2 education.

3 “(4) Development, evaluation and dissemination  
4 of model programs, including model core curricula  
5 that—

6 “(A) provide students with a broad and in-  
7 tegrated knowledge base;

8 “(B) include, at a minimum, broad survey  
9 courses in English literature, American and  
10 world history, American political institutions,  
11 economics, philosophy, college-level mathe-  
12 matics, and the natural sciences; and

13 “(C) include sufficient study of a foreign  
14 language to lead to reading and writing com-  
15 petency in the foreign language.

16 “(5) International cooperation and student ex-  
17 changes among postsecondary educational institu-  
18 tions.”.

19 **SEC. 7712. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
20 **FUND FOR THE IMPROVEMENT OF POSTSEC-**  
21 **ONDARY EDUCATION.**

22 Section 745 (20 U.S.C. 1138d) is amended by strik-  
23 ing “\$30,000,000 for fiscal year 1999” and all that fol-  
24 lows through the period and inserting “such sums as may

1 be necessary for fiscal year 2006 and each of the 5 suc-  
2 ceeding fiscal years.”.

3 **SEC. 7713. REPEAL OF THE URBAN COMMUNITY SERVICE**  
4 **PROGRAM.**

5 Part C of title VII (20 U.S.C. 1139 et seq.) is re-  
6 pealed.

7 **SEC. 7714. GRANTS AUTHORIZED FOR DEMONSTRATION**  
8 **PROJECTS TO ENSURE STUDENTS WITH DIS-**  
9 **ABILITIES RECEIVE A QUALITY HIGHER EDU-**  
10 **CATION.**

11 Section 762 (20 U.S.C. 1140a) is amended—

12 (1) in subsection (b)—

13 (A) in paragraph (2)—

14 (i) in subparagraph (A), by striking  
15 “to teach students with disabilities” and  
16 inserting “to teach and meet the academic  
17 and programmatic needs of students with  
18 disabilities in order to improve retention  
19 and completion of postsecondary edu-  
20 cation”;

21 (ii) by redesignating subparagraphs  
22 (B) and (C) as subparagraphs (C) and  
23 (F), respectively;

24 (iii) by inserting after subparagraph  
25 (A) the following:

1           “(B) EFFECTIVE TRANSITION PRAC-  
2 TICES.—The development of innovative and ef-  
3 fective teaching methods and strategies to en-  
4 sure the successful transition of students with  
5 disabilities from secondary school to postsec-  
6 ondary education.”;

7           (iv) in subparagraph (C), as redesi-  
8 gnated by clause (ii), by striking the period  
9 at the end and inserting “, including data  
10 on the postsecondary education of and im-  
11 pact on subsequent employment of stu-  
12 dents with disabilities. Such research, in-  
13 formation, and data shall be made publicly  
14 available and accessible.”;

15           (v) by inserting after subparagraph  
16 (C), as redesignated by clause (ii), the fol-  
17 lowing:

18           “(D) DISTANCE LEARNING.—The develop-  
19 ment of innovative and effective teaching meth-  
20 ods and strategies to provide faculty and ad-  
21 ministrators with the ability to provide acces-  
22 sible distance education programs or classes  
23 that would enhance access of students with dis-  
24 abilities to higher education, including the use

1 of accessible curriculum and electronic commu-  
2 nication for instruction and advisement.

3 “(E) DISABILITY CAREER PATHWAYS.—  
4 Training and providing support to secondary  
5 and postsecondary staff to encourage interest  
6 in, enhance awareness and understanding of,  
7 provide educational opportunities in, teach prac-  
8 tical skills related to, and offer work-based op-  
9 portunities in, disability related fields, among  
10 students, including students with disabilities.  
11 Such training and support may include devel-  
12 oping means to offer students credit-bearing,  
13 college-level coursework, and career and edu-  
14 cational counseling.”; and

15 (vi) by adding at the end the fol-  
16 lowing:

17 “(G) ACCESSIBILITY OF EDUCATION.—  
18 Making postsecondary education more acces-  
19 sible to students with disabilities through cur-  
20 riculum development.”; and

21 (B) in paragraph (3), by striking “sub-  
22 paragraphs (A) through (C)” and inserting  
23 “subparagraphs (A) through (G)”;  
24 (2) by adding at the end the following:

1       “(d) REPORT.—The Secretary shall prepare and dis-  
2       seminate a report reviewing the activities of the dem-  
3       onstration projects authorized under this part and pro-  
4       viding guidance and recommendations on how successful  
5       projects can be replicated.”.

6       **SEC. 7715. APPLICATIONS FOR DEMONSTRATION PROJECTS**  
7                   **TO ENSURE STUDENTS WITH DISABILITIES**  
8                   **RECEIVE A QUALITY HIGHER EDUCATION.**

9       Section 763 (20 U.S.C. 1140b) is amended—

10           (1) by striking paragraph (1) and inserting the  
11       following:

12           “(1) a description of how such institution plans  
13       to address the activities allowed under this part;”;

14           (2) in paragraph (2), by striking “and” after  
15       the semicolon;

16           (3) in paragraph (3), by striking the period at  
17       the end and inserting “; and”; and

18           (4) by adding at the end the following:

19           “(4) a description of the extent to which the in-  
20       stitution will work to replicate the research based  
21       and best practices of institutions of higher education  
22       with demonstrated success in serving students with  
23       disabilities.”.

1 **SEC. 7716. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
 2 **DEMONSTRATION PROJECTS TO ENSURE**  
 3 **STUDENTS WITH DISABILITIES RECEIVE A**  
 4 **QUALITY HIGHER EDUCATION.**

5 Section 765 (20 U.S.C. 1140d) is amended by strik-  
 6 ing “\$10,000,000 for fiscal year 1999” and all that fol-  
 7 lows through the period and inserting “such sums as may  
 8 be necessary for fiscal year 2006 and each of the 5 suc-  
 9 ceeding fiscal years.”.

10 **CHAPTER 9—MISCELLANEOUS**

11 **SEC. 7801. MISCELLANEOUS.**

12 The Act (20 U.S.C. 1001 et seq.) is amended by add-  
 13 ing at the end the following:

14 **“TITLE VIII—MISCELLANEOUS**

15 **“PART A—MATHEMATICS AND SCIENCE**

16 **SCHOLARS PROGRAM**

17 **“SEC. 811. MATHEMATICS AND SCIENCE SCHOLARS PRO-**  
 18 **GRAM.**

19 “(a) PROGRAM AUTHORIZED.—The Secretary is au-  
 20 thorized to award grants to States, on a competitive basis,  
 21 to enable the States to award eligible students, who com-  
 22 plete a rigorous secondary school curriculum in mathe-  
 23 matics and science, scholarships for undergraduate study.

24 “(b) ELIGIBLE STUDENTS.—A student is eligible for  
 25 a scholarship under this section if the student is a full-  
 26 time undergraduate student in the student’s first and sec-

1 ond year of study who has completed a rigorous secondary  
2 school curriculum in mathematics and science.

3 “(c) RIGOROUS CURRICULUM.—Each participating  
4 State shall determine the requirements for a rigorous sec-  
5 ondary school curriculum in mathematics and science de-  
6 scribed in subsection (b).

7 “(d) PRIORITY FOR SCHOLARSHIPS.—The Governor  
8 of a State may set a priority for awarding scholarships  
9 under this section for particular eligible students, such as  
10 students attending schools in high-need areas, students  
11 who are from groups underrepresented in the fields of  
12 mathematics, science, and engineering, students served by  
13 local educational agencies that do not meet or exceed State  
14 standards in mathematics and science, or students with  
15 regional or geographic needs as determined appropriate by  
16 the Governor.

17 “(e) AMOUNT AND DURATION OF SCHOLARSHIP.—  
18 The Secretary shall award a grant under this section—

19 “(1) in an amount that does not exceed \$1,000;  
20 and

21 “(2) for not more than 2 years of under-  
22 graduate study.

23 “(f) MATCHING REQUIREMENT.—In order to receive  
24 a grant under this section, a State shall provide matching  
25 funds for the scholarships awarded under this section in

1 an amount equal to 50 percent of the Federal funds re-  
2 ceived.

3 “(g) AUTHORIZATION.—There are authorized to be  
4 appropriated to carry out this section such sums as may  
5 be necessary for fiscal year 2006 and each of the 5 suc-  
6 ceeding fiscal years.

7 **“PART B—POSTSECONDARY EDUCATION**  
8 **ASSESSMENT**

9 **“SEC. 821. POSTSECONDARY EDUCATION ASSESSMENT.**

10 “(a) CONTRACT FOR ASSESSMENT.—The Secretary  
11 shall enter into a contract, with an independent, bipartisan  
12 organization with specific expertise in public administra-  
13 tion and financial management, to carry out an inde-  
14 pendent assessment of the cost factors associated with the  
15 cost of tuition at institutions of higher education.

16 “(b) TIMEFRAME.—The Secretary shall enter into  
17 the contract described in subsection (a) not later than 90  
18 days after the date of enactment of the Higher Education  
19 Amendments of 2005.

20 “(c) MATTERS ASSESSED.—The assessment de-  
21 scribed in subsection (a) shall—

22 “(1) examine the key elements driving the cost  
23 factors associated with the cost of tuition at institu-  
24 tions of higher education during academic year 2000  
25 and succeeding academic years;

1           “(2) identify and evaluate measures being used  
2           to control postsecondary education costs;

3           “(3) identify and evaluate effective measures  
4           that may be utilized to control postsecondary edu-  
5           cation costs in the future; and

6           “(4) identify systemic approaches to monitor  
7           future postsecondary education cost trends and post-  
8           secondary education cost control mechanisms.

9   **“PART C—JOB SKILL TRAINING IN HIGH-GROWTH**  
10           **OCCUPATIONS OR INDUSTRIES**

11   **“SEC. 831. JOB SKILL TRAINING IN HIGH-GROWTH OCCUPA-**  
12           **TIONS OR INDUSTRIES.**

13           “(a) GRANTS AUTHORIZED.—The Secretary is au-  
14           thorized to award grants, on a competitive basis, to eligible  
15           partnerships to enable the eligible partnerships to provide  
16           relevant job skill training in high-growth industries or oc-  
17           cupations.

18           “(b) DEFINITIONS.—In this section:

19           “(1) ELIGIBLE PARTNERSHIP.—The term ‘eligi-  
20           ble partnership’ means a partnership—

21                   “(A) between an institution of higher edu-  
22                   cation and a local board (as such term is de-  
23                   fined in section 101 of the Workforce Invest-  
24                   ment Act of 1998); or

1           “(B) if an institution of higher education  
2           is located within a State that does not operate  
3           local boards, between the institution of higher  
4           education and a State board (as such term is  
5           defined in section 101 of the Workforce Invest-  
6           ment Act of 1998).

7           “(2) NONTRADITIONAL STUDENT.—The term  
8           ‘nontraditional student’ means a student who—

9                   “(A) is independent, as defined in section  
10                  480(d);

11                  “(B) attends an institution of higher  
12                  education—

13                          “(i) on less than a full-time basis;

14                          “(ii) via evening, weekend, modular,  
15                          or compressed courses; or

16                          “(iii) via distance learning methods;

17                          or

18                          “(C) has delayed enrollment at an institu-  
19                  tion of higher education.

20           “(3) INSTITUTION OF HIGHER EDUCATION.—

21           The term ‘institution of higher education’ means an  
22           institution of higher education, as defined in section  
23           101(b), that offers a 1- or 2-year program of study  
24           leading to a degree or certificate.

25           “(c) APPLICATION.—

1           “(1) IN GENERAL.—Each eligible partnership  
2 that desires a grant under this section shall submit  
3 an application to the Secretary at such time, in such  
4 manner, and accompanied by such additional infor-  
5 mation as the Secretary may require.

6           “(2) CONTENTS.—Each application submitted  
7 under paragraph (1) shall include a description of—

8                   “(A) how the eligible partnership, through  
9 the institution of higher education, will provide  
10 relevant job skill training for students to enter  
11 high-growth occupations or industries;

12                   “(B) local high-growth occupations or in-  
13 dustries; and

14                   “(C) the need for qualified workers to meet  
15 the local demand of high-growth occupations or  
16 industries.

17           “(d) AWARD BASIS.—In awarding grants under this  
18 section, the Secretary shall—

19                   “(1) ensure an equitable distribution of grant  
20 funds under this section among urban and rural  
21 areas of the United States; and

22                   “(2) take into consideration the capability of  
23 the institution of higher education—

1           “(A) to offer relevant, high quality instruc-  
2           tion and job skill training for students entering  
3           a high-growth occupation or industry;

4           “(B) to involve the local business commu-  
5           nity and to place graduates in the community  
6           in employment in high-growth occupations or  
7           industries;

8           “(C) to provide secondary students with  
9           dual-enrollment or concurrent enrollment op-  
10          tions;

11          “(D) to serve nontraditional or low-income  
12          students, or adult or displaced workers; and

13          “(E) to serve students from rural or re-  
14          mote communities.

15          “(e) USE OF FUNDS.—Grant funds provided under  
16          this section may be used—

17               “(1) to expand or create academic programs or  
18               programs of training that provide relevant job skill  
19               training for high-growth occupations or industries;

20               “(2) to purchase equipment which will facilitate  
21               the development of academic programs or programs  
22               of training that provide training for high-growth oc-  
23               cupations or industries;

24               “(3) to support outreach efforts that enable  
25               students to attend institutions of higher education

1 with academic programs or programs of training fo-  
2 cused on high-growth occupations or industries;

3 “(4) to expand or create programs for distance,  
4 evening, weekend, modular, or compressed learning  
5 opportunities that provide relevant job skill training  
6 in high-growth occupations or industries;

7 “(5) to build partnerships with local businesses  
8 in high-growth occupations or industries;

9 “(6) to support curriculum development related  
10 to entrepreneurial training; and

11 “(7) for other uses that the Secretary deter-  
12 mines to be consistent with the intent of this section.

13 “(f) REQUIREMENTS.—

14 “(1) FISCAL AGENT.—For the purpose of this  
15 section, the institution of higher education in an eli-  
16 gible partnership shall serve as the fiscal agent and  
17 grant recipient for the eligible partnership.

18 “(2) DURATION.—The Secretary shall award  
19 grants under this section for periods that may not  
20 exceed 5 years.

21 “(3) SUPPLEMENT, NOT SUPPLANT.—Funds  
22 made available under this section shall be used to  
23 supplement and not supplant other Federal, State,  
24 and local funds available to the eligible partnership

1 for carrying out the activities described in subsection  
2 (e).

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to carry out this part  
5 such sums as may be necessary for fiscal year 2006 and  
6 each of the 5 succeeding fiscal years.

7 **“PART D—GRANT PROGRAM TO INCREASE STU-**  
8 **DENT RETENTION AND PROMOTE ARTICULA-**  
9 **TION AGREEMENTS**

10 **“SEC. 841. GRANT PROGRAM TO INCREASE STUDENT RE-**  
11 **TENTION AND PROMOTE ARTICULATION**  
12 **AGREEMENTS.**

13 “(a) AUTHORIZATION OF PROGRAM.—The Secretary  
14 shall award grants, on a competitive basis, to eligible insti-  
15 tutions to enable the institutions to—

16 “(1) focus on increasing traditional and non-  
17 traditional student retention at such institutions;  
18 and

19 “(2) promote articulation agreements among  
20 different institutions that will increase the likelihood  
21 of progression of students at such institutions to  
22 baccalaureate degrees.

23 “(b) DEFINITION OF ELIGIBLE INSTITUTION.—In  
24 this section, the term ‘eligible institution’ means an insti-  
25 tution of higher education (as defined in section 101(a))

1 where not less than 40 percent of such institution's stu-  
2 dent body receives financial aid under subpart 1 of part  
3 A of title IV.

4       “(c) APPLICATION.—An eligible institution that de-  
5 sires a grant under this section shall submit an application  
6 to the Secretary at such time, in such manner, and con-  
7 taining such information as the Secretary may require, in-  
8 cluding the number of students proposed to be served and  
9 a description of the services that will be provided.

10       “(d) MANDATORY ACTIVITIES.—An eligible institu-  
11 tion that receives a grant under this section shall use the  
12 grant funds to carry out each of the following:

13               “(1) Offering counseling and advisement serv-  
14 ices to help students adapt to postsecondary edu-  
15 cation and select appropriate coursework.

16               “(2) Making mentors available to students who  
17 are at risk for not completing a degree.

18               “(3) Providing detailed assistance to students  
19 who request help in understanding—

20                       “(A) the options for financing their edu-  
21 cation, including information on grants, loans,  
22 and loan repayment programs;

23                       “(B) the process of applying for financial  
24 assistance;

1           “(C) the outcome of their financial assist-  
2           ance application; and

3           “(D) any unanticipated problems related to  
4           financing their education that arise.

5           “(4) Offering tutoring to students at risk of  
6           dropping out of school with any course or subject.

7           “(5) Designing and implementing innovative  
8           ways to improve retention in and completion of  
9           courses, such as enrolling students in cohorts, pro-  
10          viding counseling, or creating bridge programs that  
11          customize courses to the needs of special population  
12          students.

13          “(6) Conducting outreach activities so that all  
14          students know that these services are available and  
15          are aware of how to access the services.

16          “(7) Creating articulation agreements to pro-  
17          mote smooth transition from two year to four year  
18          programs.

19          “(8) Making services listed in paragraphs (1)  
20          through (5) available in students’ native languages,  
21          if it is not English, if the percentage of students  
22          needing translation services in a specific language  
23          exceeds 5 percent.

1       “(e) PERMISSIBLE ACTIVITIES.—An eligible institu-  
2 tion that receives a grant under this section may use grant  
3 funds to carry out any of the following activities:

4           “(1) Designing innovative course schedules to  
5 meet the needs of working adults, such as online,  
6 modular, compressed, or other alternative methods.

7           “(2) Offering childcare during the hours when  
8 students have class or are studying.

9           “(3) Providing transportation assistance to stu-  
10 dents that helps such students manage their sched-  
11 ules.

12           “(4) Partnering with local businesses to create  
13 flexible work-hour programs so that students can  
14 balance work and school.

15           “(5) Offering time management or financial lit-  
16 eracy seminars to help students improve their man-  
17 agement skills.

18           “(6) Improving professional development to  
19 align instruction with innovative program designs.

20           “(7) Any other activities the Secretary believes  
21 will promote retention of students attending eligible  
22 institutions.

23       “(f) TECHNICAL ASSISTANCE.—The Secretary may  
24 enter into a contract with a private entity to provide such

1 technical assistance to grantees under this section as the  
2 Secretary determines appropriate.

3 “(g) EVALUATION.—The Secretary shall conduct an  
4 evaluation of program impacts under the demonstration  
5 program, and shall disseminate to the public the findings  
6 from the evaluation and information on best practices.

7 “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
8 is authorized to be appropriated to carry out this and such  
9 sums as may be necessary for fiscal year 2006 and each  
10 of the 5 succeeding fiscal years.

11 **“PART E—AMERICAN HISTORY FOR FREEDOM**

12 **“SEC. 851. AMERICAN HISTORY FOR FREEDOM.**

13 “(a) GRANTS AUTHORIZED.—The Secretary is au-  
14 thorized to award 3-year grants, on a competitive basis,  
15 to eligible institutions to establish or strengthen postsec-  
16 ondary academic programs or centers that promote and  
17 impart knowledge of—

18 “(1) traditional American history;

19 “(2) the history and nature of, and threats to,  
20 free institutions; or

21 “(3) the history and achievements of Western  
22 civilization.

23 “(b) DEFINITIONS.—In this section:

1           “(1) ELIGIBLE INSTITUTION.—The term ‘eligi-  
2           ble institution’ means an institution of higher edu-  
3           cation as defined in section 101.

4           “(2) FREE INSTITUTION.—The term ‘free insti-  
5           tution’ means an institution that emerged out of  
6           Western civilization, such as democracy, constitu-  
7           tional government, individual rights, market econom-  
8           ics, religious freedom and religious tolerance, and  
9           freedom of thought and inquiry.

10           “(3) TRADITIONAL AMERICAN HISTORY.—The  
11           term ‘traditional American history’ means—

12                   “(A) the significant constitutional, polit-  
13                   ical, intellectual, economic, and foreign policy  
14                   trends and issues that have shaped the course  
15                   of American history; and

16                   “(B) the key episodes, turning points, and  
17                   leading figures involved in the constitutional,  
18                   political, intellectual, diplomatic, and economic  
19                   history of the United States.

20           “(c) APPLICATION.—

21                   “(1) IN GENERAL.—Each eligible institution  
22                   that desires a grant under this part shall submit an  
23                   application to the Secretary at such time, in such  
24                   manner, and accompanied by such additional infor-  
25                   mation as the Secretary may require.

1           “(2) CONTENTS.—Each application submitted  
2 under subsection (a) shall include a description of —

3           “(A) how funds made available under this  
4 part will be used for the activities set forth  
5 under subsection (e), including how such activi-  
6 ties will increase knowledge with respect to tra-  
7 ditional American history, free institutions, or  
8 Western civilization;

9           “(B) how the eligible institution will ensure  
10 that information about the activities funded  
11 under this part is widely disseminated pursuant  
12 to subsection (e)(1)(B);

13           “(C) any activities to be undertaken pursu-  
14 ant to subsection (e)(2)(A), including identifica-  
15 tion of entities intended to participate;

16           “(D) how funds made available under this  
17 part shall be used to supplement and not sup-  
18 plant non-Federal funds available for the activi-  
19 ties described in subsection (e); and

20           “(E) such fiscal controls and accounting  
21 procedures as may be necessary to ensure prop-  
22 er disbursement of and accounting for funding  
23 made available to the eligible institution under  
24 this part.

1       “(d) AWARD BASIS.—In awarding grants under this  
2 part, the Secretary shall take into consideration the capa-  
3 bility of the eligible institution to—

4           “(1) increase access to quality programming  
5 that expands knowledge of traditional American his-  
6 tory, free institutions, or Western civilization;

7           “(2) involve personnel with strong expertise in  
8 traditional American history, free institutions, or  
9 Western civilization; and

10          “(3) sustain the activities funded under this  
11 part after the grant has expired.

12       “(e) USE OF FUNDS.—

13           “(1) REQUIRED USE OF FUNDS.—Funds pro-  
14 vided under this part shall be used to—

15           “(A) establish or strengthen academic pro-  
16 grams or centers focused on traditional Amer-  
17 ican history, free institutions, or Western civili-  
18 zation, which may include—

19           “(i) design and implementation of  
20 programs of study, courses, lecture series,  
21 seminars, and symposia;

22           “(ii) development, publication, and  
23 dissemination of instructional materials;

24           “(iii) research;

1           “(iv) support for faculty teaching in  
2           undergraduate and, if applicable, graduate  
3           programs;

4           “(v) support for graduate and post-  
5           graduate fellowships, if applicable; or

6           “(vi) teacher preparation initiatives  
7           that stress content mastery regarding tra-  
8           ditional American history, free institutions,  
9           or Western civilization; and

10          “(B) conduct outreach activities to ensure  
11          that information about the activities funded  
12          under this part is widely disseminated—

13               “(i) to undergraduate students (in-  
14               cluding students enrolled in teacher edu-  
15               cation programs, if applicable);

16               “(ii) to graduate students (including  
17               students enrolled in teacher education pro-  
18               grams), if applicable;

19               “(iii) to faculty;

20               “(iv) to local educational agencies;

21          and

22               “(v) within the local community.

23          “(2) ALLOWABLE USES OF FUNDS.—Funds  
24          provided under this part may be used to support—

25               “(A) collaboration with entities such as—

1           “(i) local educational agencies, for the  
 2           purpose of providing elementary, middle  
 3           and secondary school teachers an oppor-  
 4           tunity to enhance their knowledge of tradi-  
 5           tional American history, free institutions,  
 6           or Western civilization; and

7           “(ii) nonprofit organizations whose  
 8           mission is consistent with the purpose of  
 9           this part, such as academic organizations,  
 10          museums, and libraries, for assistance in  
 11          carrying out activities described under sub-  
 12          section (a); and

13          “(B) other activities that meet the pur-  
 14          poses of this part.

15          “(f) AUTHORIZATION OF APPROPRIATIONS.—For the  
 16          purpose of carrying out this part, there are authorized to  
 17          be appropriated such sums as may be necessary for fiscal  
 18          year 2006 and each of the 5 succeeding fiscal years.

19                   **“PART F—TEACH FOR AMERICA**

20           **“SEC. 861. TEACH FOR AMERICA.**

21           “(a) DEFINITIONS.—

22                   “(1) IN GENERAL.—The terms ‘highly quali-  
 23                   fied’, ‘local educational agency’, and ‘Secretary’ have  
 24                   the meanings given the terms in section 9101 of the

1 Elementary and Secondary Education Act of 1965  
2 (20 U.S.C. 7801).

3 “(2) GRANTEE.—The term ‘grantee’ means  
4 Teach For America, Inc.

5 “(3) HIGH NEED.—The term ‘high need’, when  
6 used with respect to a local educational agency,  
7 means a local educational agency experiencing a  
8 shortage of highly qualified teachers.

9 “(b) GRANTS AUTHORIZED.—The Secretary is au-  
10 thorized to award a grant to Teach For America, Inc.,  
11 the national teacher corps of outstanding recent college  
12 graduates who commit to teach for 2 years in underserved  
13 communities in the United States, to implement and ex-  
14 pand its program of recruiting, selecting, training, and  
15 supporting new teachers.

16 “(c) REQUIREMENTS.—In carrying out the grant pro-  
17 gram under subsection (b), the Secretary shall enter into  
18 an agreement with the grantee under which the grantee  
19 agrees to use the grant funds provided under this  
20 section—

21 “(1) to provide highly qualified teachers to high  
22 need local educational agencies in urban and rural  
23 communities;

24 “(2) to pay the cost of recruiting, selecting,  
25 training, and supporting new teachers; and

1           “(3) to serve a substantial number and percent-  
2 age of underserved students.

3           “(d) AUTHORIZED ACTIVITIES.—

4           “(1) IN GENERAL.—Grant funds provided  
5 under this section shall be used by the grantee to  
6 carry out each of the following activities:

7           “(A) Recruiting and selecting teachers  
8 through a highly selective national process.

9           “(B) Providing preservice training to the  
10 teachers through a rigorous summer institute  
11 that includes hands-on teaching experience and  
12 significant exposure to education coursework  
13 and theory.

14           “(C) Placing the teachers in schools and  
15 positions designated by partner local edu-  
16 cational agencies as high need placements serv-  
17 ing underserved students.

18           “(D) Providing ongoing professional devel-  
19 opment activities for the teachers’ first 2 years  
20 in the classroom, including regular classroom  
21 observations and feedback, and ongoing train-  
22 ing and support.

23           “(2) LIMITATION.—The grantee shall use all  
24 grant funds received under this section to support  
25 activities related directly to the recruitment, selec-

1 tion, training, and support of teachers as described  
2 in subsection (a).

3 “(e) REPORTS AND EVALUATIONS.—

4 “(1) ANNUAL REPORT.—The grantee shall pro-  
5 vide to the Secretary an annual report that  
6 includes—

7 “(A) data on the number and quality of  
8 the teachers provided to local educational agen-  
9 cies through a grant under this section;

10 “(B) an externally conducted analysis of  
11 the satisfaction of local educational agencies  
12 and principals with the teachers so provided;  
13 and

14 “(C) comprehensive data on the back-  
15 ground of the teachers chosen, the training the  
16 teachers received, the placement sites of the  
17 teachers, the professional development of the  
18 teachers, and the retention of the teachers.

19 “(2) STUDY.—

20 “(A) IN GENERAL.—From funds appro-  
21 priated under subsection (f), the Secretary shall  
22 provide for a study that examines the achieve-  
23 ment levels of the students taught by the teach-  
24 ers assisted under this section.

1           “(B) ACHIEVEMENT GAINS COMPARED.—

2           The study shall compare, within the same  
3           schools, the achievement gains made by stu-  
4           dents taught by teachers who are assisted  
5           under this section with the achievement gains  
6           made by students taught by teachers who are  
7           not assisted under this section.

8           “(3) REQUIREMENTS.—The Secretary shall  
9           provide for such a study not less than once every 3  
10          years, and each such study shall include multiple  
11          placement sites and multiple schools within place-  
12          ment sites.

13          “(4) PEER REVIEW STANDARDS.—Each such  
14          study shall meet the peer review standards of the  
15          education research community.

16          “(f) AUTHORIZATION OF APPROPRIATIONS.—

17          “(1) IN GENERAL.—There are authorized to be  
18          appropriated to carry out this section such sums as  
19          may be necessary for fiscal year 2006 and each of  
20          the 5 succeeding fiscal years.

21          “(2) LIMITATION.—The grantee shall not use  
22          more than 25 percent of Federal funds from any  
23          source for administrative costs.

1 **“PART G—PATSY T. MINK FELLOWSHIP PROGRAM**

2 **“SEC. 871. PATSY T. MINK FELLOWSHIP PROGRAM.**

3 “(a) PURPOSE.—

4 “(1) IN GENERAL.—It is the purpose of this  
5 section to provide, through eligible institutions, a  
6 program of fellowship awards to assist highly quali-  
7 fied minorities and women to acquire the doctoral  
8 degree, or highest possible degree available, in aca-  
9 demic areas in which such individuals are underrep-  
10 resented for the purpose of enabling such individuals  
11 to enter the higher education professoriate.

12 “(2) DESIGNATION.—Each recipient of a fellow-  
13 ship award from an eligible institution receiving a  
14 grant under this section shall be known as a ‘Patsy  
15 T. Mink Graduate Fellow’.

16 “(b) DEFINITIONS.—In this section, the term ‘eligible  
17 institution’ means an institution of higher education, or  
18 a consortium of such institutions, that offers a program  
19 of postbaccalaureate study leading to a graduate degree.

20 “(c) PROGRAM AUTHORIZED.—

21 “(1) GRANTS BY SECRETARY.—

22 “(A) IN GENERAL.—The Secretary shall  
23 award grants to eligible institutions to enable  
24 such institutions to make fellowship awards to  
25 individuals in accordance with the provisions of  
26 this section.

1           “(B) PRIORITY CONSIDERATION.—In  
2           awarding grants under this section, the Sec-  
3           retary shall consider the eligible institution’s  
4           prior experience in producing doctoral degree,  
5           or highest possible degree available, holders who  
6           are minorities and women, and shall give pri-  
7           ority consideration in making grants under this  
8           section to those eligible institutions with a dem-  
9           onstrated record of producing minorities and  
10          women who have earned such degrees.

11          “(2) APPLICATIONS.—

12               “(A) IN GENERAL.—An eligible institution  
13               that desires a grant under this section shall  
14               submit an application to the Secretary at such  
15               time, in such manner, and containing such in-  
16               formation as the Secretary may require.

17               “(B) APPLICATIONS MADE ON BEHALF.—

18                       “(i) IN GENERAL.—The following en-  
19                       tities may submit an application on behalf  
20                       of an eligible institution:

21                               “(I) A graduate school or depart-  
22                               ment of such institution.

23                               “(II) A graduate school or de-  
24                               partment of such institution in col-

1                   laboration with an undergraduate col-  
2                   lege or university of such institution.

3                   “(III) An organizational unit  
4                   within such institution that offers a  
5                   program of postbaccalaureate study  
6                   leading to a graduate degree, includ-  
7                   ing an interdisciplinary or an inter-  
8                   departmental program.

9                   “(IV) A nonprofit organization  
10                  with a demonstrated record of helping  
11                  minorities and women earn  
12                  postbaccalaureate degrees.

13                  “(ii) NONPROFIT ORGANIZATIONS.—  
14                  Nothing in this paragraph shall be con-  
15                  strued to permit the Secretary to award a  
16                  grant under this section to an entity other  
17                  than an eligible institution.

18                  “(3) SELECTION OF APPLICATIONS.—In award-  
19                  ing grants under subsection (a), the Secretary  
20                  shall—

21                  “(A) take into account—

22                  “(i) the number and distribution of  
23                  minority and female faculty nationally;

1           “(ii) the current and projected need  
2           for highly trained individuals in all areas  
3           of the higher education professoriate; and

4           “(iii) the present and projected need  
5           for highly trained individuals in academic  
6           career fields in which minorities and  
7           women are underrepresented in the higher  
8           education professoriate; and

9           “(B) consider the need to prepare a large  
10          number of minorities and women generally in  
11          academic career fields of high national priority,  
12          especially in areas in which such individuals are  
13          traditionally underrepresented in college and  
14          university faculties, such as mathematics,  
15          science, technology, and engineering.

16          “(4) DISTRIBUTION AND AMOUNTS OF  
17          GRANTS.—

18                 “(A) EQUITABLE DISTRIBUTION.—In  
19                 awarding grants under this section, the Sec-  
20                 retary shall, to the maximum extent feasible,  
21                 ensure an equitable geographic distribution of  
22                 awards and an equitable distribution among  
23                 public and independent eligible institutions that  
24                 apply for grants under this section and that

1 demonstrate an ability to achieve the purpose of  
2 this section.

3 “(B) SPECIAL RULE.—To the maximum  
4 extent practicable, the Secretary shall use not  
5 less than 30 percent of the amount appro-  
6 priated pursuant to subsection (f) to award  
7 grants to eligible institutions that—

8 “(i) are eligible for assistance under  
9 title III or title V; or

10 “(ii) have formed a consortium that  
11 includes both non-minority serving institu-  
12 tions and minority serving institutions.

13 “(C) ALLOCATION.—In awarding grants  
14 under this section, the Secretary shall allocate  
15 appropriate funds to those eligible institutions  
16 whose applications indicate an ability to signifi-  
17 cantly increase the numbers of minorities and  
18 women entering the higher education professo-  
19 riate and that commit institutional resources to  
20 the attainment of the purpose of this section.

21 “(D) NUMBER OF FELLOWSHIP  
22 AWARDS.—An eligible institution that receives a  
23 grant under this section shall make not less  
24 than 15 fellowship awards.

1           “(E) REALLOTMENT.—If the Secretary de-  
2           termines that an eligible institution awarded a  
3           grant under this section is unable to use all of  
4           the grant funds awarded to the institution, the  
5           Secretary shall reallocate, on such date during  
6           each fiscal year as the Secretary may fix, the  
7           unused funds to other eligible institutions that  
8           demonstrate that such institutions can use any  
9           reallocated grant funds to make fellowship  
10          awards to individuals under this section.

11          “(5) INSTITUTIONAL ALLOWANCE.—

12                 “(A) IN GENERAL.—

13                         “(i) NUMBER OF ALLOWANCES.—In  
14                         awarding grants under this section, the  
15                         Secretary shall pay to each eligible institu-  
16                         tion awarded a grant, for each individual  
17                         awarded a fellowship by such institution  
18                         under this section, an institutional allow-  
19                         ance.

20                         “(ii) AMOUNT.—Except as provided in  
21                         paragraph (3), an institutional allowance  
22                         shall be in an amount equal to, for aca-  
23                         demic year 2006–2007 and succeeding aca-  
24                         demic years, the amount of institutional al-  
25                         lowance made to an institution of higher

1 education under section 715 for such aca-  
2 demic year.

3 “(B) USE OF FUNDS.—Institutional allow-  
4 ances may be expended in the discretion of the  
5 eligible institution and may be used to provide,  
6 except as prohibited under paragraph (4), aca-  
7 demic support and career transition services for  
8 individuals awarded fellowships by such institu-  
9 tion.

10 “(C) REDUCTION.—The institutional al-  
11 lowance paid under paragraph (1) shall be re-  
12 duced by the amount the eligible institution  
13 charges and collects from a fellowship recipient  
14 for tuition and other expenses as part of the re-  
15 cipient’s instructional program.

16 “(D) USE FOR OVERHEAD PROHIBITED.—  
17 Funds made available under this section may  
18 not be used for general operational overhead of  
19 the academic department or institution receiv-  
20 ing funds under this section.

21 “(d) FELLOWSHIP RECIPIENTS.—

22 “(1) AUTHORIZATION.—An eligible institution  
23 that receives a grant under this section shall use the  
24 grant funds to make fellowship awards to minorities  
25 and women who are enrolled at such institution in

1 a doctoral degree, or highest possible degree avail-  
2 able, program and—

3 “(A) intend to pursue a career in instruc-  
4 tion at—

5 “(i) an institution of higher education  
6 (as the term is defined in section 101);

7 “(ii) an institution of higher education  
8 (as the term is defined in section  
9 102(a)(1));

10 “(iii) an institution of higher edu-  
11 cation outside the United States (as the  
12 term is described in section 102(a)(2)); or

13 “(iv) a proprietary institution of high-  
14 er education (as the term is defined in sec-  
15 tion 102(b)); and

16 “(B) sign an agreement with the Secretary  
17 agreeing—

18 “(i) to begin employment at an insti-  
19 tution described in paragraph (1) not later  
20 than 3 years after receiving the doctoral  
21 degree or highest possible degree available,  
22 which 3-year period may be extended by  
23 the Secretary for extraordinary cir-  
24 cumstances; and

1                   “(ii) to be employed by such institu-  
2                   tion for 1 year for each year of fellowship  
3                   assistance received under this section.

4                   “(2) FAILURE TO COMPLY.—If an individual  
5                   who receives a fellowship award under this section  
6                   fails to comply with the agreement signed pursuant  
7                   to subsection (a)(2), then the Secretary shall do 1  
8                   or both of the following:

9                   “(A) Require the individual to repay all or  
10                  the applicable portion of the total fellowship  
11                  amount awarded to the individual by converting  
12                  the balance due to a loan at the interest rate  
13                  applicable to loans made under part B of title  
14                  IV.

15                  “(B) Impose a fine or penalty in an  
16                  amount to be determined by the Secretary.

17                  “(3) WAIVER AND MODIFICATION.—

18                  “(A) REGULATIONS.—The Secretary shall  
19                  promulgate regulations setting forth criteria to  
20                  be considered in granting a waiver for the serv-  
21                  ice requirement under subsection (a)(2).

22                  “(B) CONTENT.—The criteria under para-  
23                  graph (1) shall include whether compliance with  
24                  the service requirement by the fellowship recipi-  
25                  ent would be—

1                   “(i) inequitable and represent an ex-  
2                   traordinary hardship; or

3                   “(ii) deemed impossible because the  
4                   individual is permanently and totally dis-  
5                   abled at the time of the waiver request.

6                   “(4) AMOUNT OF FELLOWSHIP AWARDS.—Fel-  
7                   lowship awards under this section shall consist of a  
8                   stipend in an amount equal to the level of support  
9                   provided to the National Science Foundation grad-  
10                  uate fellows, except that such stipend shall be ad-  
11                  justed as necessary so as not to exceed the fellow’s  
12                  tuition and fees or demonstrated need (as deter-  
13                  mined by the institution of higher education where  
14                  the graduate student is enrolled), whichever is great-  
15                  er.

16                  “(5) ACADEMIC PROGRESS REQUIRED.—An in-  
17                  dividual student shall not be eligible to receive a fel-  
18                  lowship award—

19                         “(A) except during periods in which such  
20                         student is enrolled, and such student is main-  
21                         taining satisfactory academic progress in, and  
22                         devoting essentially full time to, study or re-  
23                         search in the pursuit of the degree for which  
24                         the fellowship support was awarded; and

1           “(B) if the student is engaged in gainful  
2           employment, other than part-time employment  
3           in teaching, research, or similar activity deter-  
4           mined by the eligible institution to be consistent  
5           with and supportive of the student’s progress  
6           toward the appropriate degree.

7           “(e) RULE OF CONSTRUCTION.—Nothing in this sec-  
8           tion shall be construed to require an eligible institution  
9           that receives a grant under this section—

10           “(1) to grant a preference or to differentially  
11           treat any applicant for a faculty position as a result  
12           of the institution’s participation in the program  
13           under this section; or

14           “(2) to hire a Patsy T. Mink Fellow who com-  
15           pletes this program and seeks employment at such  
16           institution.

17           “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
18           is authorized to be appropriated to carry out this section  
19           such sums as may be necessary for fiscal year 2006 for  
20           each of the 5 succeeding fiscal years.

1 **“PART H—STUDY ON COLLEGE ENROLLMENT BY**  
 2 **SECONDARY SCHOOLS**

3 **“SEC. 881. STUDY ON COLLEGE ENROLLMENT BY SEC-**  
 4 **ONDARY SCHOOLS.**

5 “The Secretary shall contract with a not-for-profit or-  
 6 ganization, with demonstrated expertise in increasing col-  
 7 lege enrollment rates in low-income communities nation-  
 8 wide, to make publicly available year-to-year college enroll-  
 9 ment rate trends by secondary schools, in full compliance  
 10 with the Family Educational Rights and Privacy Act of  
 11 1974 (FERPA).”.

12 **CHAPTER 10—AMENDMENTS TO OTHER**  
 13 **LAWS**

14 **Subchapter A—Education of the Deaf Act of**  
 15 **1986**

16 **SEC. 7901. LAURENT CLERC NATIONAL DEAF EDUCATION**  
 17 **CENTER.**

18 Section 104 of the Education of the Deaf Act of 1986  
 19 (20 U.S.C. 4304) is amended—

20 (1) by striking the heading and inserting  
 21 **“LAURENT CLERC NATIONAL DEAF EDUCATION**  
 22 **CENTER”**;

23 (2) in subsection (a)(1)(A), by inserting “the  
 24 Laurent Clerc National Deaf Education Center (re-  
 25 ferred to in this section as the ‘Clerc Center’) to  
 26 carry out” after “maintain and operate”; and

1 (3) in subsection (b)—

2 (A) in the matter preceding subparagraph  
3 (A) of paragraph (1), by striking “elementary  
4 and secondary education programs” and insert-  
5 ing “Clerc Center”;

6 (B) in paragraph (2), by striking “elemen-  
7 tary and secondary education programs” and  
8 inserting “Clerc Center”; and

9 (C) by adding at the end the following:

10 “(5) The University, for purposes of the elementary  
11 and secondary education programs carried out at the Clerc  
12 Center, shall—

13 “(A)(i) select challenging academic content  
14 standards, challenging student academic achieve-  
15 ment standards, and academic assessments of a  
16 State, adopted and implemented, as appropriate,  
17 pursuant to paragraphs (1) and (3) of section  
18 1111(b) of the Elementary and Secondary Edu-  
19 cation Act of 1965 (20 U.S.C. 6311(b)(1) and (3))  
20 and approved by the Secretary; and

21 “(ii) implement such standards and assess-  
22 ments for such programs by not later than the be-  
23 ginning of the 2008–2009 academic year;

24 “(B) annually determine whether such pro-  
25 grams at the Clerc Center are making adequate

1 yearly progress, as determined according to the defi-  
2 nition of adequate yearly progress defined (pursuant  
3 to section 1111(b)(2)(C) of such Act (20 U.S.C.  
4 6311(b)(2)(C))) by the State that has adopted and  
5 implemented the standards and assessments selected  
6 under subparagraph (A)(i); and

7 “(C) publicly report the results of the academic  
8 assessments implemented under subparagraph (A)  
9 and whether the programs at the Clerc Center are  
10 making adequate yearly progress, as determined  
11 under subparagraph (B).”.

12 **SEC. 7902. AGREEMENT WITH GALLAUDET UNIVERSITY.**

13 Section 105(b)(4) of the Education of the Deaf Act  
14 of 1986 (20 U.S.C. 4305(b)(4)) is amended—

15 (1) by striking “the Act of March 3, 1931 (40  
16 U.S.C. 276a–276a–5) commonly referred to as the  
17 Davis-Bacon Act” and inserting “subchapter IV of  
18 chapter 31 of title 40, United States Code, com-  
19 monly referred to as the Davis-Bacon Act”; and

20 (2) by striking “section 2 of the Act of June  
21 13, 1934 (40 U.S.C. 276c)” and inserting “section  
22 3145 of title 40, United States Code”.

1 **SEC. 7903. AGREEMENT FOR THE NATIONAL TECHNICAL IN-**  
2 **STITUTE FOR THE DEAF.**

3 Section 112 of the Education of the Deaf Act of 1986  
4 (20 U.S.C. 4332) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)—

7 (i) in the first sentence—

8 (I) by striking “an institution of  
9 higher education” and inserting “the  
10 Rochester Institute of Technology,  
11 Rochester, New York”; and

12 (II) by striking “of a” and in-  
13 serting “of the”; and

14 (ii) by striking the second sentence;

15 (B) by redesignating paragraph (2) as  
16 paragraph (3); and

17 (C) by inserting after paragraph (1) the  
18 following:

19 “(2) Notwithstanding the requirement under  
20 paragraph (1), if the Secretary or the Rochester In-  
21 stitute of Technology terminates the agreement  
22 under paragraph (1), the Secretary shall consider  
23 proposals from other institutions of higher education  
24 and enter into an agreement with 1 of such institu-  
25 tions for the establishment and operation of a Na-  
26 tional Technical Institution for the Deaf.”; and

1 (2) in subsection (b)—

2 (A) in paragraph (3), by striking “Com-  
3 mittee on Education and Labor of the House of  
4 Representatives and to the Committee on Labor  
5 and Human Resources of the Senate” and in-  
6 serting “Committee on Education and the  
7 Workforce of the House of Representatives and  
8 to the Committee on Health, Education, Labor,  
9 and Pensions of the Senate”; and

10 (B) in paragraph (5)—

11 (i) by striking “the Act of March 3,  
12 1931 (40 U.S.C. 276a–276a–5) commonly  
13 referred to as the Davis-Bacon Act” and  
14 inserting “subchapter IV of chapter 31 of  
15 title 40, United States Code, commonly re-  
16 ferred to as the Davis-Bacon Act”; and

17 (ii) by striking “section 2 of the Act  
18 of June 13, 1934 (40 U.S.C. 276c)” and  
19 inserting “section 3145 of title 40, United  
20 States Code”.

21 **SEC. 7904. CULTURAL EXPERIENCES GRANTS.**

22 (a) CULTURAL EXPERIENCES GRANTS.—Title I of  
23 the Education of the Deaf Act of 1986 (20 U.S.C. 4301  
24 et seq.) is amended by adding at the end the following:

1                   **“PART C—OTHER PROGRAMS**

2   **“SEC. 121. CULTURAL EXPERIENCES GRANTS.**

3           “(a) IN GENERAL.—The Secretary shall, on a com-  
4 petitive basis, make grants to, and enter into contracts  
5 and cooperative agreements with, eligible entities to sup-  
6 port the activities described in subsection (b).

7           “(b) ACTIVITIES.—In carrying out this section, the  
8 Secretary shall support activities providing cultural experi-  
9 ences, through appropriate nonprofit organizations with a  
10 demonstrated proficiency in providing such activities,  
11 that—

12                   “(1) enrich the lives of deaf and hard-of-hear-  
13 ing children and adults;

14                   “(2) increase public awareness and under-  
15 standing of deafness and of the artistic and intellec-  
16 tual achievements of deaf and hard-of-hearing per-  
17 sons; or

18                   “(3) promote the integration of hearing, deaf,  
19 and hard-of-hearing persons through shared cul-  
20 tural, educational, and social experiences.

21           “(c) APPLICATIONS.—An eligible entity that desires  
22 to receive a grant, or enter into a contract or cooperative  
23 agreement, under this section shall submit an application  
24 to the Secretary at such time, in such manner, and con-  
25 taining such information as the Secretary may require.

1       “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 such sums as may be necessary for fiscal year 2006 and  
4 each of the 5 succeeding fiscal years.”.

5       (b) CONFORMING AMENDMENT.—The title heading  
6 of title I of the Education of the Deaf Act of 1986 (20  
7 U.S.C. 4301 et seq.) is amended by adding at the end  
8 “; OTHER PROGRAMS”.

9       **SEC. 7905. AUDIT.**

10       Section 203 of the Education of the Deaf Act of 1986  
11 (20 U.S.C. 4353) is amended—

12               (1) in subsection (b)—

13                       (A) in paragraph (1), by striking the sec-  
14 ond sentence and inserting the following: “The  
15 institution of higher education that the Sec-  
16 retary has an agreement with under section 112  
17 shall have an annual independent financial and  
18 compliance audit made of NTID programs and  
19 activities. The audit shall follow the cycle of the  
20 Federal fiscal year.”;

21                       (B) in paragraph (2), by striking “sec-  
22 tions” and all that follows through the period  
23 and inserting “sections 102(b), 105(b)(4),  
24 112(b)(5), 203(c), 207(b)(2), subsections (c)

1 through (f) of section 207, and subsections (b)  
2 and (c) of section 209.”; and

3 (C) in paragraph (3), by inserting “and  
4 the Committee on Education and the Workforce  
5 of the House of Representatives and the Com-  
6 mittee on Health, Education, Labor, and Pen-  
7 sions of the Senate” after “Secretary”; and

8 (2) in subsection (c)(2)(A), by striking “Com-  
9 mittee on Education and Labor of the House of  
10 Representatives and the Committee on Labor and  
11 Human Resources of the Senate” and inserting  
12 “Committee on Education and the Workforce of the  
13 House of Representatives and the Committee on  
14 Health, Education, Labor, and Pensions of the Sen-  
15 ate”.

16 **SEC. 7906. REPORTS.**

17 Section 204 of the Education of the Deaf Act of 1986  
18 (20 U.S.C. 4354) is amended—

19 (1) in the matter preceding paragraph (1), by  
20 striking “Committee on Education and Labor of the  
21 House of Representatives and the Committee on  
22 Labor and Human Resources of the Senate” and in-  
23 serting “Committee on Education and the Workforce  
24 of the House of Representatives and the Committee

1 on Health, Education, Labor, and Pensions of the  
2 Senate”;

3 (2) in paragraph (1), by striking “pre-  
4 paratory,”;

5 (3) in paragraph (2)(C), by striking “upon  
6 graduation/completion” and inserting “on the date  
7 that is 1 year after the date of graduation or com-  
8 pletion”; and

9 (4) in paragraph (3)(B), by striking “of the in-  
10 stitution of higher education” and all that follows  
11 through the period and inserting “of NTID pro-  
12 grams and activities.”.

13 **SEC. 7907. MONITORING, EVALUATION, AND REPORTING.**

14 Section 205 of the Education of the Deaf Act of 1986  
15 (20 U.S.C. 4355) is amended—

16 (1) in subsection (b), by striking “The Sec-  
17 retary, as part of the annual report required under  
18 section 426 of the Department of Education Organi-  
19 zation Act, shall include a description of” and in-  
20 sserting “The Secretary shall annually transmit infor-  
21 mation to Congress on”; and

22 (2) in subsection (c), by striking “fiscal years  
23 1998 through 2003” and inserting “fiscal years  
24 2006 through 2010”.

1 **SEC. 7908. LIAISON FOR EDUCATIONAL PROGRAMS.**

2 Section 206(a) of the Education of the Deaf Act of  
3 1986 (20 U.S.C. 4356(a)) is amended by striking “Not  
4 later than 30 days after the date of enactment of this Act,  
5 the” and inserting “The”.

6 **SEC. 7909. FEDERAL ENDOWMENT PROGRAMS FOR GAL-**  
7 **LAUDET UNIVERSITY AND THE NATIONAL**  
8 **TECHNICAL INSTITUTE FOR THE DEAF.**

9 Section 207(h) of the Education of the Deaf Act of  
10 1986 (20 U.S.C. 4357(h)) is amended by striking “fiscal  
11 years 1998 through 2003” each place it appears and in-  
12 serting “fiscal years 2006 through 2010”.

13 **SEC. 7910. OVERSIGHT AND EFFECT OF AGREEMENTS.**

14 Section 208(a) of the Education of the Deaf Act of  
15 1986 (20 U.S.C. 4359(a)) is amended by striking “Com-  
16 mittee on Labor and Human Resources of the Senate and  
17 the Committee on Education and the Workforce of the  
18 House of Representatives” and inserting “Committee on  
19 Education and the Workforce of the House of Representa-  
20 tives and the Committee on Health, Education, Labor,  
21 and Pensions of the Senate”.

22 **SEC. 7911. INTERNATIONAL STUDENTS.**

23 Section 209 of the Education of the Deaf Act of 1986  
24 (20 U.S.C. 4359a) is amended—

25 (1) in subsection (a)—

1 (A) by striking “preparatory, under-  
2 graduate,” and inserting “undergraduate”;

3 (B) by striking “Effective with” and in-  
4 serting the following:

5 “(1) IN GENERAL.—Except as provided in para-  
6 graph (2), effective with”; and

7 (C) by adding at the end the following:

8 “(2) DISTANCE LEARNING.—International stu-  
9 dents who participate in distance learning courses  
10 that are at NTID or the University and who are re-  
11 siding outside of the United States shall—

12 “(A) not be counted as international stu-  
13 dents for purposes of the cap on international  
14 students under paragraph (1), except that in  
15 any school year no United States citizen who  
16 applies to participate in distance learning  
17 courses that are at the University or NTID  
18 shall be denied participation in such courses be-  
19 cause of the participation of an international  
20 student in such courses; and

21 “(B) not be charged a tuition surcharge,  
22 as described in subsection (b).”; and

23 (2) by striking subsections (b), (c), and (d), and  
24 inserting the following:

1       “(b) TUITION SURCHARGE.—Except as provided in  
 2 subsections (a)(2)(B) and (c), the tuition for postsec-  
 3 ondary international students enrolled in the University  
 4 (including undergraduate and graduate students) or  
 5 NTID shall include, for academic year 2007–2008 and  
 6 any succeeding academic year, a surcharge of—

7           “(1) 100 percent for a postsecondary inter-  
 8 national student from a non-developing country; and

9           “(2) 50 percent for a postsecondary inter-  
 10 national student from a developing country.

11       “(c) REDUCTION OF SURCHARGE.—

12           “(1) IN GENERAL.—Beginning with the aca-  
 13 demic year 2007–2008, the University or NTID may  
 14 reduce the surcharge—

15           “(A) under subsection (b)(1) to 50 percent  
 16 if—

17           “(i) a student described under sub-  
 18 section (b)(1) demonstrates need; and

19           “(ii) such student has made a good  
 20 faith effort to secure aid through such stu-  
 21 dent’s government or other sources; and

22           “(B) under subsection (b)(2) to 25 percent  
 23 if—

24           “(i) a student described under sub-  
 25 section (b)(2) demonstrates need; and

1                   “(ii) such student has made a good  
2                   faith effort to secure aid through such stu-  
3                   dent’s government or other sources.

4                   “(2) DEVELOPMENT OF SLIDING SCALE.—The  
5                   University and NTID shall develop a sliding scale  
6                   model that—

7                   “(A) will be used to determine the amount  
8                   of a tuition surcharge reduction pursuant to  
9                   paragraph (1); and

10                  “(B) shall be approved by the Secretary.

11                  “(d) DEFINITION.—In this section, the term ‘devel-  
12                  oping country’ means a country with a per-capita income  
13                  of not more than \$4,825, measured in 1999 United States  
14                  dollars, as adjusted by the Secretary to reflect inflation  
15                  since 1999.”.

16 **SEC. 7912. RESEARCH PRIORITIES.**

17                  Section 210(b) of the Education of the Deaf Act of  
18                  1986 (20 U.S.C. 4359b(b)) is amended by striking “Com-  
19                  mittee on Labor and Human Resources of the Senate”  
20                  and inserting “Committee on Health, Education, Labor,  
21                  and Pensions of the Senate”.

22 **SEC. 7913. AUTHORIZATION OF APPROPRIATIONS.**

23                  Section 212 of the Education of the Deaf Act of 1986  
24                  (20 U.S.C. 4360a) is amended—

1 (1) in subsection (a), in the matter preceding  
 2 paragraph (1), by striking “fiscal years 1998  
 3 through 2003” and inserting “fiscal years 2006  
 4 through 2011”; and

5 (2) in subsection (b), by striking “fiscal years  
 6 1998 through 2003” and inserting “fiscal years  
 7 2006 through 2011”.

8 **Subchapter B—United States Institute of**  
 9 **Peace Act**

10 **SEC. 7921. UNITED STATES INSTITUTE OF PEACE ACT.**

11 (a) POWERS AND DUTIES.—Section 1705(b)(3) of  
 12 the United States Institute of Peace Act (22 U.S.C.  
 13 4604(b)(3)) is amended by striking “the Arms Control  
 14 and Disarmament Agency,”.

15 (b) BOARD OF DIRECTORS.—Section 1706 of the  
 16 United States Institute of Peace Act (22 U.S.C. 4605)  
 17 is amended—

18 (1) by striking “(b)(5)” each place the term ap-  
 19 pears and inserting “(b)(4)”; and

20 (2) in subsection (e), by adding at the end the  
 21 following:

22 “(5) The term of a member of the Board shall  
 23 not commence until the member is confirmed by the  
 24 Senate and sworn in as a member of the Board.”.

1 (c) FUNDING.—Section 1710 of the United States In-  
 2 stitute of Peace Act (22 U.S.C. 4609) is amended by add-  
 3 ing at the end the following:

4 “(d) EXTENSION.—Any authorization of appropria-  
 5 tions made for the purposes of carrying out this title shall  
 6 be extended in the same manner as applicable programs  
 7 are extended under section 422 of the General Education  
 8 Provisions Act.”.

### 9 **Subchapter C—The Higher Education**

#### 10 **Amendments of 1998**

##### 11 **SEC. 7931. REPEALS.**

12 The following provisions of title VIII of the Higher  
 13 Education Amendments of 1998 (Public Law 105–244)  
 14 are repealed:

- 15 (1) Part A.
- 16 (2) Part C (20 U.S.C. 1070 note).
- 17 (3) Part F (20 U.S.C. 1862 note).
- 18 (4) Part J.
- 19 (5) Section 861.
- 20 (6) Section 863.

##### 21 **SEC. 7932. GRANTS TO STATES FOR WORKPLACE AND COM-** 22 **MUNITY TRANSITION TRAINING FOR INCAR-** 23 **CERATED YOUTH OFFENDERS.**

24 Section 821(b) of the Higher Education Amendment  
 25 of 1988 is amended by striking “25” and inserting “35”.

1           **Subchapter D—Indian Education**

2           **PART I—TRIBAL COLLEGES AND UNIVERSITIES**

3           **SEC. 7941. REAUTHORIZATION OF THE TRIBALLY CON-**  
4                           **TROLLED COLLEGE OR UNIVERSITY ASSIST-**  
5                           **ANCE ACT OF 1978.**

6           (a) CLARIFICATION OF THE DEFINITION OF NA-  
7           TIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the  
8           Tribally Controlled College or University Assistance Act  
9           of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking  
10          “in the field of Indian education” and inserting “in the  
11          fields of tribally controlled colleges and universities and  
12          Indian higher education”.

13          (b) INDIAN STUDENT COUNT.—Section 2(a) of the  
14          Tribally Controlled College or University Assistance Act  
15          (25 U.S.C. 1801(a)) is amended—

16                  (1) by redesignating paragraphs (7) and (8) as  
17                  paragraphs (8) and (9), respectively; and

18                  (2) by inserting after paragraph (6) the fol-  
19                  lowing:

20                          “(7) ‘Indian student’ means a student who is—

21    “(A) a member of an Indian tribe; or

22    “(B) a biological child of a member of an  
23                                  Indian tribe, living or deceased;”.

24          (c) CONTINUING EDUCATION.—Section 2(b) of the  
25          Tribally Controlled College or University Assistance Act

1 (25 U.S.C. 1801(b)) is amended by striking paragraph (5)  
2 and inserting the following:

3 “(5) DETERMINATION OF CREDITS.—Eligible  
4 credits earned in a continuing education program—

5 “(A) shall be determined as 1 credit for  
6 every 10 contact hours in the case of an institu-  
7 tion on a quarter system, or 15 contact hours  
8 in the case of an institution on a semester sys-  
9 tem, of participation in an organized continuing  
10 education experience under responsible sponsor-  
11 ship, capable direction, and qualified instruc-  
12 tion, as described in the criteria established by  
13 the International Association for Continuing  
14 Education and Training; and

15 “(B) shall be limited to 10 percent of the  
16 Indian student count of a tribally controlled col-  
17 lege or university.”.

18 (d) ACCREDITATION REQUIREMENT.—Section 103 of  
19 the Tribally Controlled College or University Assistance  
20 Act (25 U.S.C. 1804) is amended—

21 (1) in paragraph (2), by striking “and” at the  
22 end;

23 (2) in paragraph (3), by striking the period at  
24 the end and inserting “; and”; and

1           (3) by inserting after paragraph (3), the fol-  
2           lowing:

3           “(4)(A) is accredited by a nationally recognized  
4           accrediting agency or association determined by the  
5           Secretary of Education to be a reliable authority  
6           with regard to the quality of training offered; or

7           “(B) is, according to such an agency or associa-  
8           tion, making reasonable progress toward accredita-  
9           tion.”.

10          (e) TECHNICAL ASSISTANCE CONTRACT AWARDS.—

11         Section 105 of the Tribally Controlled College or Univer-  
12         sity Assistance Act (25 U.S.C. 1805) is amended in the  
13         second sentence by striking “In the awarding of contracts  
14         for technical assistance, preference shall be given” and in-  
15         serting “The Secretary shall direct that contracts for tech-  
16         nical assistance be awarded”.

17          (f) TITLE I REAUTHORIZATION.—Section 110(a) of  
18         the Tribally Controlled College or University Assistance  
19         Act of 1978 (25 U.S.C. 1810(a)) is amended—

20                 (1) in paragraphs (1), (2), (3), and (4), by  
21                 striking “1999” and inserting “2006”;

22                 (2) in paragraphs (1), (2), and (3), by striking  
23                 “4 succeeding” and inserting “5 succeeding”;

1           (3) in paragraph (2), by striking  
2           “\$40,000,000” and inserting “such sums as may be  
3           necessary”;

4           (4) in paragraph (3), by striking  
5           “\$10,000,000” and inserting “such sums as may be  
6           necessary”; and

7           (5) in paragraph (4), by striking “succeeding  
8           4” and inserting “5 succeeding”.

9           (g) TITLE III REAUTHORIZATION.—Section 306(a)  
10          of the Tribally Controlled College or University Assistance  
11          Act of 1978 (25 U.S.C. 1836(a)) is amended—

12           (1) by striking “1999” and inserting “2006”;  
13          and

14           (2) by striking “4 succeeding” and inserting “5  
15          succeeding”.

16          (h) TITLE IV REAUTHORIZATION.—Section 403 of  
17          the Tribal Economic Development and Technology Re-  
18          lated Education Assistance Act of 1990 (25 U.S.C. 1852)  
19          is amended—

20           (1) by striking “\$2,000,000 for fiscal year  
21          1999” and inserting “such sums as may be nec-  
22          essary for fiscal year 2006”; and

23           (2) by striking “4 succeeding” and inserting “5  
24          succeeding”.

1           **PART II—NAVAJO HIGHER EDUCATION**

2   **SEC. 7945. SHORT TITLE.**

3           This part may be cited as the “Navajo Nation Higher  
4 Education Act of 2005”.

5   **SEC. 7946. REAUTHORIZATION OF NAVAJO COMMUNITY**  
6           **COLLEGE ACT.**

7           (a) **PURPOSE.**—Section 2 of the Navajo Community  
8 College Act (25 U.S.C. 640a) is amended—

9                 (1) by striking “Navajo Tribe of Indians” and  
10                inserting “Navajo Nation”; and

11               (2) by striking “the Navajo Community Col-  
12               lege” and inserting “Diné College”.

13           (b) **GRANTS.**—Section 3 of the Navajo Community  
14 College Act (25 U.S.C. 640b) is amended—

15               (1) in the first sentence—

16                     (A) by inserting “the” before “Interior”;

17                     (B) by striking “Navajo Tribe of Indians”  
18                     and inserting “Navajo Nation”; and

19                     (C) by striking “the Navajo Community  
20                     College” and inserting “Diné College”; and

21               (2) in the second sentence—

22                     (A) by striking “Navajo Tribe” and insert-  
23                     ing “Navajo Nation”; and

24                     (B) by striking “Navajo Indians” and in-  
25                     serting “Navajo people”.

1 (c) STUDY OF FACILITIES NEEDS.—Section 4 of the  
2 Navajo Community College Act (25 U.S.C. 640c) is  
3 amended—

4 (1) in subsection (a)—

5 (A) in the first sentence—

6 (i) by striking “the Navajo Commu-  
7 nity College” and inserting “Diné College”;  
8 and

9 (ii) by striking “August 1, 1979” and  
10 inserting “October 31, 2009”; and

11 (B) in the second sentence, by striking  
12 “Navajo Tribe” and inserting “Navajo Nation”;

13 (2) in subsection (b), by striking “the date of  
14 enactment of the Tribally Controlled Community  
15 College Assistance Act of 1978” and inserting “Oc-  
16 tober 1, 2006”; and

17 (3) in subsection (c), in the first sentence, by  
18 striking “the Navajo Community College” and in-  
19 serting “Diné College”.

20 (d) AUTHORIZATION OF APPROPRIATIONS.—Section  
21 5 of the Navajo Community College Act (25 U.S.C. 640c-  
22 1) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (1), by striking  
25 “\$2,000,000” and all that follows through the

1 end of the paragraph and inserting “such sums  
2 as are necessary for fiscal years 2006 through  
3 2011.”; and

4 (B) by adding at the end the following:

5 “(3) Sums described in paragraph (2) shall be used  
6 to provide grants for construction activities, including the  
7 construction of buildings, water and sewer facilities, roads,  
8 information technology and telecommunications infra-  
9 structure, classrooms, and external structures (such as  
10 walkways).”;

11 (2) in subsection (b)(1)—

12 (A) in the matter preceding subparagraph

13 (A)—

14 (i) by striking “the Navajo Commu-  
15 nity College” and inserting “Diné College”;

16 and

17 (ii) by striking “, for each fiscal year”  
18 and all that follows through “for—” and  
19 inserting “such sums as are necessary for  
20 fiscal years 2006 through 2011 to pay the  
21 cost of—”;

22 (B) in subparagraph (A)—

23 (i) by striking “college” and inserting  
24 “College”;

1 (ii) in clauses (i) and (iii), by striking  
2 the commas at the ends of the clauses and  
3 inserting semicolons; and

4 (iii) in clause (ii), by striking “, and”  
5 at the end and inserting “; and”;

6 (C) in subparagraph (B), by striking the  
7 comma at the end and inserting a semicolon;

8 (D) in subparagraph (C), by striking “,  
9 and” at the end and inserting a semicolon;

10 (E) in subparagraph (D), by striking the  
11 period at the end and inserting “; and”; and

12 (F) by adding at the end the following:

13 “(E) improving and expanding the College,  
14 including by providing, for the Navajo people  
15 and others in the community of the College—

16 “(i) higher education programs;

17 “(ii) vocational and technical edu-  
18 cation;

19 “(iii) activities relating to the preser-  
20 vation and protection of the Navajo lan-  
21 guage, philosophy, and culture;

22 “(iv) employment and training oppor-  
23 tunities;

24 “(v) economic development and com-  
25 munity outreach; and

1                   “(vi) a safe learning, working, and liv-  
2                   ing environment.”; and

3                   (3) in subsection (c), by striking “the Navajo  
4                   Community College” and inserting “Diné College”.

5                   (e) EFFECT ON OTHER LAWS.—Section 6 of the  
6 Navajo Community College Act (25 U.S.C. 640c-2) is  
7 amended—

8                   (1) by striking “the Navajo Community Col-  
9                   lege” each place it appears and inserting “Diné Col-  
10                  lege”; and

11                  (2) in subsection (b), by striking “college” and  
12                  inserting “College”.

13                  (f) PAYMENTS; INTEREST.—Section 7 of the Navajo  
14 Community College Act (25 U.S.C. 640c-3) is amended  
15 by striking “the Navajo Community College” each place  
16 it appears and inserting “Diné College”.

## 17                  **Subtitle D—Hurricane Relief**

### 18                  **SEC. 7947. FINDINGS.**

19                  Congress finds the following:

20                  (1) Hurricane Katrina has had a devastating  
21                  and unprecedented impact on students who attended  
22                  schools in the disaster areas.

23                  (2) Due to the devastating effects of Hurricane  
24                  Katrina, a significant number of students have en-  
25                  rolled in schools outside of the area in which they

1       resided on August 22, 2005, including a significant  
2       number of students who enrolled in non-public  
3       schools because their parents chose to enroll them in  
4       such schools.

5               (3) 372,000 students were displaced by Hurri-  
6       cane Katrina. Approximately 700 schools have been  
7       damaged or destroyed. Nine States each have more  
8       than 1,000 of such displaced students enrolled in  
9       their schools. In Texas alone, over 45,000 displaced  
10       students have enrolled in schools.

11              (4) In response to these extraordinary condi-  
12       tions, this subtitle creates a one-time only emergency  
13       grant for the 2005–2006 school year tailored to the  
14       needs and particular circumstances of students dis-  
15       placed by Hurricane Katrina.

16 **SEC. 7948. IMMEDIATE AID TO RESTART SCHOOL OPER-**  
17 **ATIONS.**

18       (a) **PURPOSE.**—It is the purpose of this section—

19              (1) to provide immediate and direct assistance  
20       to local educational agencies in Louisiana, Mis-  
21       sissippi, and Alabama that serve an area in which a  
22       major disaster has been declared in accordance with  
23       section 401 of the Robert T. Stafford Disaster Relief  
24       and Emergency Assistance Act (42 U.S.C. 5170),  
25       related to Hurricane Katrina;

1           (2) to assist school district administrators and  
2           personnel of such agencies who are working to re-  
3           start operations in elementary schools and secondary  
4           schools served by such agencies; and

5           (3) to facilitate the re-opening of elementary  
6           schools and secondary schools served by such agen-  
7           cies and the re-enrollment of students in such  
8           schools as soon as possible.

9           (b) PAYMENTS AND GRANTS AUTHORIZED.—From  
10          amounts appropriated to carry out this subtitle, the Sec-  
11          retary of Education is authorized to make payments, not  
12          later than November 30, 2005, to State educational agen-  
13          cies (as defined in section 9101 of the Elementary and  
14          Secondary Education Act of 1965 (20 U.S.C. 7801 et  
15          seq.)) in Louisiana, Mississippi, and Alabama to enable  
16          such agencies to award grants to local educational agen-  
17          cies serving an area in which a major disaster has been  
18          declared in accordance with section 401 of the Robert T.  
19          Stafford Disaster Relief and Emergency Assistance Act  
20          (42 U.S.C. 5170), related to Hurricane Katrina.

21          (c) ELIGIBILITY AND CONSIDERATION.—In deter-  
22          mining whether to award a grant under this section, or  
23          the amount of the grant, the State educational agency  
24          shall consider the following:

1           (1) The number of school-aged children served  
2           by the local educational agency in the academic year  
3           preceding the academic year for which the grant is  
4           awarded.

5           (2) The severity of the impact of Hurricane  
6           Katrina on the local educational agency and the ex-  
7           tent of the needs in each local educational agency in  
8           Louisiana, Mississippi, and Alabama that is in an  
9           area in which a major disaster has been declared in  
10          accordance with section 401 of the Robert T. Staf-  
11          ford Disaster Relief and Emergency Assistance Act  
12          (42 U.S.C. 5170), related to Hurricane Katrina.

13          (d) APPLICATIONS.—Each local educational agency  
14          desiring a grant under this section shall submit an appli-  
15          cation to the State educational agency at such time, in  
16          such manner, and accompanied by such information as the  
17          State educational agency may reasonably require to ensure  
18          expedited and timely payment to the local educational  
19          agency.

20          (e) USES OF FUNDS.—

21                (1) IN GENERAL.—A local educational agency  
22                receiving a grant under this section shall use the  
23                grant funds for—

24                        (A) recovery of student and personnel  
25                        data, and other electronic information;

- 1 (B) replacement of school district informa-  
2 tion systems, including hardware and software;  
3 (C) financial operations;  
4 (D) reasonable transportation costs;  
5 (E) rental of mobile educational units and  
6 leasing of neutral sites or spaces;  
7 (F) initial replacement of instructional ma-  
8 terials and equipment, including textbooks;  
9 (G) redeveloping instructional plans, in-  
10 cluding curriculum development;  
11 (H) initiating and maintaining education  
12 and support services; and  
13 (I) such other activities related to the pur-  
14 pose of this section that are approved by the  
15 Secretary.

16 (2) USE WITH OTHER AVAILABLE FUNDS.—A  
17 local educational agency receiving a grant under this  
18 section may use the grant funds in coordination with  
19 other Federal, State, or local funds available for the  
20 activities described in paragraph (1).

21 (3) PROHIBITIONS.—Grant funds received  
22 under this section shall not be used for any of the  
23 following:

- 24 (A) Construction or major renovation of  
25 schools.

1           (B) Payments to school administrators or  
2           teachers who are not actively engaged in re-  
3           starting or re-opening schools.

4           (f) SUPPLEMENT NOT SUPPLANT.—

5           (1) IN GENERAL.—Except as provided in para-  
6           graph (2), funds made available under this section  
7           shall be used to supplement, not supplant, any funds  
8           made available through the Federal Emergency  
9           Management Agency or through a State.

10          (2) EXCEPTION.—Paragraph (1) shall not pro-  
11          hibit the provision of Federal assistance under this  
12          section to an eligible educational agency that is or  
13          may be entitled to receive, from another source, ben-  
14          efits for the same purposes as under this section  
15          if—

16                 (A) such agency has not received such  
17                 other benefits by the time of application for  
18                 Federal assistance under this section; and

19                 (B) such agency agrees to repay all dupli-  
20                 cative Federal assistance received to carry out  
21                 the purposes of this section.

22         **SEC. 7949. HOLD HARMLESS FOR LOCAL EDUCATIONAL**  
23                 **AGENCIES SERVING MAJOR DISASTER AREAS.**

24           In the case of a local educational agency that serves  
25         an area in which the President has declared that a major

1 disaster exists in accordance with section 401 of the Rob-  
 2 ert T. Stafford Disaster Relief and Emergency Assistance  
 3 Act (42 U.S.C. 5170), related to Hurricane Katrina, the  
 4 amount made available for such local educational agency  
 5 under each of sections 1124, 1124A, 1125, and 1125A  
 6 of the Elementary and Secondary Education Act of 1965  
 7 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year  
 8 2006 shall be not less than the amount made available  
 9 for such local educational agency under each of such sec-  
 10 tions for fiscal year 2005.

11 **SEC. 7950. TEACHER AND PARAPROFESSIONAL RECI-**  
 12 **PROCITY; DELAY.**

13 (a) **TEACHER AND PARAPROFESSIONAL RECI-**  
 14 **PROCITY.—**

15 (1) **TEACHERS.—**

16 (A) **AFFECTED TEACHER.—**In this sub-  
 17 section, the term “affected teacher” means a  
 18 teacher who is displaced due to Hurricane  
 19 Katrina and relocates to a State that is dif-  
 20 ferent from the State in which such teacher re-  
 21 sided on August 22, 2005.

22 (B) **IN GENERAL.—**A local educational  
 23 agency may consider an affected teacher hired  
 24 by such agency who is not highly qualified in  
 25 the State in which such agency is located to be

1 highly qualified, for purposes of section 1119 of  
2 the Elementary and Secondary Education Act  
3 of 1965 (20 U.S.C. 6319) and section  
4 612(a)(14) of the Individuals with Disabilities  
5 Education Act (20 U.S.C. 1412(a)(14)), for a  
6 period not to exceed 1 year, if such teacher was  
7 highly qualified, consistent with section  
8 9101(23) of the Elementary and Secondary  
9 Education Act of 1965 (20 U.S.C. 7801(23))  
10 and section 602(10) of the Individuals with  
11 Disabilities Education Act (20 U.S.C.  
12 1401(10)), on or before August 22, 2005, in  
13 the State in which such teacher resided on Au-  
14 gust 22, 2005.

15 (2) PARAPROFESSIONAL.—

16 (A) AFFECTED PARAPROFESSIONAL.—In  
17 this subsection, the term “affected paraprofes-  
18 sional” means a paraprofessional who is dis-  
19 placed due to Hurricane Katrina and relocates  
20 to a State that is different from the State in  
21 which such paraprofessional resided on August  
22 22, 2005.

23 (B) IN GENERAL.—A local educational  
24 agency may consider an affected paraprofes-  
25 sional hired by such agency who does not sat-

1           isfy the requirements of section 1119(e) of the  
2           Elementary and Secondary Education Act of  
3           1965 (20 U.S.C. 6319(e)) in the State in which  
4           such agency is located to satisfy such require-  
5           ments, for purposes of such section, for a pe-  
6           riod not to exceed 1 year, if such paraprofes-  
7           sional satisfied such requirements on or before  
8           August 22, 2005, in the State in which such  
9           paraprofessional resided on August 22, 2005.

10         (b) DELAY.—The Secretary of Education may delay,  
11         for a period not to exceed 1 year, applicability of the re-  
12         quirements of paragraphs (2) and (3) of section 1119(a)  
13         of the Elementary and Secondary Education Act of 1965  
14         (20 U.S.C. 6319(a)(2) and (3)) and section 612(a)(14)(C)  
15         of the Individuals with Disabilities Education Act (20  
16         U.S.C. 1412(a)(14)(C)) with respect to the States of Ala-  
17         bama, Louisiana, and Mississippi (and local educational  
18         agencies within the jurisdiction of such States), if any  
19         such State or local educational agency demonstrates that  
20         a failure to comply with such requirements is due to excep-  
21         tional or uncontrollable circumstances, such as a natural  
22         disaster or a precipitous and unforeseen decline in the fi-  
23         nancial resources of local educational agencies within the  
24         State.

1 **SEC. 7951. ASSISTANCE FOR HOMELESS YOUTH.**

2 (a) IN GENERAL.—The Secretary of Education shall  
3 provide assistance to local educational agencies serving  
4 homeless children and youths displaced by Hurricane  
5 Katrina, consistent with section 723 of the McKinney-  
6 Vento Homeless Assistance Act (42 U.S.C. 11433), in-  
7 cluding identification, enrollment assistance, assessment  
8 and school placement assistance, transportation, coordina-  
9 tion of school services, supplies, referrals for health, men-  
10 tal health, and other needs.

11 (b) EXCEPTION AND DISTRIBUTION OF FUNDS.—

12 (1) EXCEPTION.—For purposes of providing as-  
13 sistance under subsection (a), subsections (c) and  
14 (e)(1) of section 722 and subsections (b) and (c) of  
15 section 723 of the McKinney-Vento Homeless Assist-  
16 ance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b)  
17 and (c)) shall not apply.

18 (2) DISBURSEMENT.—The Secretary of Edu-  
19 cation shall disburse funding provided under sub-  
20 section (a) to State educational agencies based on  
21 demonstrated need, as determined by the Secretary,  
22 and such State educational agencies shall distribute  
23 funds, that are appropriated under section 7958 and  
24 available to carry out this section, to local edu-  
25 cational agencies based on demonstrated need, for  
26 the purposes of carrying out section 723 of the

1 McKinney-Vento Homeless Assistance Act (42  
2 U.S.C. 11433).

3 **SEC. 7952. TEMPORARY EMERGENCY IMPACT AID FOR DIS-**  
4 **PLACED STUDENTS.**

5 (a) TEMPORARY EMERGENCY IMPACT AID AUTHOR-  
6 IZED.—

7 (1) AID TO STATE EDUCATIONAL AGENCIES.—

8 From amounts appropriated under this subtitle, the  
9 Secretary of Education shall provide emergency im-  
10 pact aid to State educational agencies to enable the  
11 State educational agencies to make emergency im-  
12 pact aid payments to eligible local educational agen-  
13 cies and eligible BIA-funded schools to enable—

14 (A) such eligible local educational agencies  
15 and schools to provide for the instruction of dis-  
16 placed students served by such agencies and  
17 schools; and

18 (B) such eligible local educational agencies  
19 to make immediate impact aid payments to ac-  
20 counts established on behalf of displaced stu-  
21 dents (referred to in this section as “accounts”)  
22 who are attending eligible non-public schools lo-  
23 cated in the areas served by the eligible local  
24 educational agencies.

1           (2) AID TO LOCAL EDUCATIONAL AGENCIES  
2           AND BIA-FUNDED SCHOOLS.—A State educational  
3           agency shall make emergency impact aid payments  
4           to eligible local educational agencies and eligible  
5           BIA-funded schools in accordance with subsection  
6           (d).

7           (3) STATE EDUCATIONAL AGENCIES IN CER-  
8           TAIN STATES.—In the case of the States of Lou-  
9           isiana and Mississippi, the State educational agency  
10          shall carry out the activities of eligible local edu-  
11          cational agencies that are unable to carry out this  
12          section, including eligible local educational agencies  
13          in such States for which the State exercises the au-  
14          thorities normally exercised by such local educational  
15          agencies.

16          (b) DEFINITIONS.—In this section:

17               (1) DISPLACED STUDENT.—The term “dis-  
18               placed student” means a student who enrolled in a  
19               school (other than the school that the student was  
20               enrolled in, or was eligible to be enrolled in, on Au-  
21               gust 22, 2005) because such student resides or re-  
22               sided on August 22, 2005, in an area for which a  
23               major disaster has been declared in accordance with  
24               section 401 of the Robert T. Stafford Disaster Relief

1 and Emergency Assistance Act (42 U.S.C. 5170),  
2 related to Hurricane Katrina.

3 (2) ELIGIBLE LOCAL EDUCATIONAL AGEN-  
4 CIES.—The term “eligible local educational agency”  
5 means a local educational agency that serves—

6 (A) an elementary school or secondary  
7 school (including a charter school) in which  
8 there is enrolled a displaced student; or

9 (B) an area in which there is located an el-  
10 igible non-public school.

11 (3) ELIGIBLE NON-PUBLIC SCHOOL.—The term  
12 “eligible non-public school” means a non-public  
13 school that—

14 (A) is accredited or licensed or otherwise  
15 operates in accordance with State law;

16 (B) was in existence on August 22, 2005;  
17 and

18 (C) serves a displaced student on behalf of  
19 whom an application for an account has been  
20 made pursuant to subsection (c)(2)(A)(ii).

21 (4) ELIGIBLE BIA-FUNDED SCHOOL.—In this  
22 section, the term “eligible BIA-funded school”  
23 means a school funded by the Bureau of Indian Af-  
24 fairs in which there is enrolled a displaced student.

25 (c) APPLICATION.—

1           (1) STATE EDUCATIONAL AGENCY.—A State  
2 educational agency that desires to receive emergency  
3 impact aid under this section shall submit an appli-  
4 cation to the Secretary of Education at such time,  
5 in such manner, and accompanied by such informa-  
6 tion as the Secretary of Education may reasonably  
7 require, including—

8           (A) information on the total displaced stu-  
9 dent child count of the State provided by eligi-  
10 ble local educational agencies in the State and  
11 eligible BIA-funded schools in the State under  
12 paragraph (2);

13           (B) a description of the process for the  
14 parent or guardian of a displaced student en-  
15 rolled in a non-public school to indicate to the  
16 eligible local educational agency serving the  
17 area in which such school is located that the  
18 student is enrolled in such school;

19           (C) a description of the procedure to be  
20 used by an eligible local educational agency in  
21 such State to provide payments to accounts;

22           (D) a description of the process to be used  
23 by an eligible local educational agency in such  
24 State to obtain—

1 (i) attestations of attendance of eligi-  
2 ble displaced students from eligible non-  
3 public schools, in order for the local edu-  
4 cational agency to provide payments to ac-  
5 counts on behalf of eligible displaced stu-  
6 dents; and

7 (ii) attestations from eligible non-pub-  
8 lic schools that accounts are used only for  
9 the purposes described in subsection  
10 (e)(2)(A); and

11 (E) the criteria, including family income,  
12 used to determine the eligibility for and the  
13 amount of assistance under this section pro-  
14 vided on behalf of a displaced student attending  
15 an eligible non-public school.

16 (2) LOCAL EDUCATIONAL AGENCIES AND BIA-  
17 FUNDED SCHOOLS.—An eligible local educational  
18 agency or eligible BIA-funded school that desires an  
19 emergency impact aid payment under this section  
20 shall submit an application to the State educational  
21 agency at such time, in such manner, and accom-  
22 panied by such information as the State educational  
23 agency may reasonably require, including docu-  
24 mentation submitted quarterly for the 2005–2006  
25 school year that indicates the following:

1 (A) In the case of an eligible local edu-  
2 cational agency—

3 (i) the number of displaced students  
4 enrolled in the elementary schools and sec-  
5 ondary schools (including charter schools  
6 and including the number of displaced stu-  
7 dents who are served under part B of the  
8 Individuals with Disabilities Education  
9 Act) served by such agency for such quar-  
10 ter; and

11 (ii) the number of displaced students  
12 for whom the eligible local educational  
13 agency expects to provide payments to ac-  
14 counts under subsection (e)(2) (including  
15 the number of displaced students who are  
16 served under part B of the Individuals  
17 with Disabilities Education Act) for such  
18 quarter who meet the following criteria:

19 (I) The displaced student en-  
20 rolled in an eligible non-public school  
21 prior to the date of enactment of this  
22 Act.

23 (II) The parent or guardian of  
24 the displaced student chose to enroll  
25 the student in the eligible non-public

1 school in which the student is en-  
2 rolled.

3 (III) The parent or guardian of  
4 the displaced student submitted an  
5 application requesting that the agency  
6 make a payment to an account on be-  
7 half of the student.

8 (IV) The displaced student's tui-  
9 tion and fees (and transportation ex-  
10 penses, if any) for the 2005–2006  
11 school year is waived or reimbursed  
12 (by the eligible non-public school) in  
13 an amount that is not less than the  
14 amount of emergency impact aid pay-  
15 ment provided on behalf of such stu-  
16 dent under this section.

17 (B) In the case of an eligible BIA-funded  
18 school, the number of displaced students, in-  
19 cluding the number of displaced students who  
20 are served under part B of the Individuals with  
21 Disabilities Education Act (20 U.S.C. 1411 et  
22 seq.), enrolled in such school for such quarter.

23 (3) DETERMINATION OF NUMBER OF DIS-  
24 PLACED STUDENTS.—In determining the number of  
25 displaced students for a quarter under paragraph

1 (2), an eligible local educational agency or eligible  
2 BIA-funded school shall include in such number the  
3 number of displaced students served during such  
4 quarter prior to the date of enactment of this Act.

5 (d) AMOUNT OF EMERGENCY IMPACT AID.—

6 (1) AID TO STATE EDUCATIONAL AGENCIES.—

7 (A) IN GENERAL.—The amount of emer-  
8 gency impact aid received by a State edu-  
9 cational agency for the 2005–2006 school year  
10 shall equal the sum of—

11 (i) the product of the number of dis-  
12 placed students (who are not served under  
13 part B of the Individuals with Disabilities  
14 Education Act (20 U.S.C. 1411 et seq.)),  
15 as determined by the eligible local edu-  
16 cational agencies and eligible BIA-funded  
17 schools in the State under subsection  
18 (c)(2), times \$6,000; and

19 (ii) the product of the number of dis-  
20 placed students who are served under part  
21 B of the Individuals with Disabilities Edu-  
22 cation Act, as determined by the eligible  
23 local educational agencies and eligible BIA-  
24 funded schools in the State under sub-  
25 section (c)(2), times \$7,500.

1 (B) INSUFFICIENT FUNDS.—If the amount  
2 available under this section to provide emer-  
3 gency impact aid under this subsection is insuf-  
4 ficient to pay the full amount that a State edu-  
5 cational agency is eligible to receive under this  
6 section, the Secretary of Education shall rat-  
7 ably reduce the amount of such emergency im-  
8 pact aid.

9 (2) AID TO ELIGIBLE LOCAL EDUCATIONAL  
10 AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.—

11 (A) QUARTERLY INSTALLMENTS.—

12 (i) IN GENERAL.—A State educational  
13 agency shall provide emergency impact aid  
14 payments under this section on a quarterly  
15 basis for the 2005–2006 school year by  
16 such dates as determined by the Secretary  
17 of Education. Such quarterly installment  
18 payments shall be based on the number of  
19 displaced students reported under sub-  
20 section (c)(2) and in the amount deter-  
21 mined under clause (ii).

22 (ii) PAYMENT AMOUNT.—Each quar-  
23 terly installment payment under clause (i)  
24 shall equal 25 percent of the sum of—

1 (I) the number of displaced stu-  
2 dents (who are not served under part  
3 B of the Individuals with Disabilities  
4 Education Act (20 U.S.C. 1411 et  
5 seq.)) reported by the eligible local  
6 educational agency or eligible BIA-  
7 funded school for such quarter (as de-  
8 termined under subsection (c)(2))  
9 times \$6,000; and

10 (II) the number of displaced stu-  
11 dents who are served under part B of  
12 the Individuals with Disabilities Edu-  
13 cation Act (20 U.S.C. 1411 et seq.)  
14 reported by the eligible local edu-  
15 cational agency or eligible BIA-funded  
16 school for such quarter (as deter-  
17 mined under subsection (c)(2)) times  
18 \$7,500.

19 (iii) **TIMELINE.**—The Secretary of  
20 Education shall establish a timeline for  
21 quarterly reporting on the number of dis-  
22 placed students in order to make the ap-  
23 propriate disbursements in a timely man-  
24 ner.

1 (iv) INSUFFICIENT FUNDS.—If, for  
2 any quarter, the amount available under  
3 this section to make payments under this  
4 subsection is insufficient to pay the full  
5 amount that an eligible local educational  
6 agency or eligible BIA-funded school is eli-  
7 gible to receive under this section, the  
8 State educational agency shall ratably re-  
9 duce the amount of such payments.

10 (B) MAXIMUM PAYMENT TO ACCOUNT.—In  
11 providing quarterly payments to an account for  
12 the 2005–2006 school year on behalf of a dis-  
13 placed student for each quarter that such stu-  
14 dent is enrolled in a non-public school in the  
15 area served by the agency under subsection  
16 (e)(2), an eligible local educational agency may  
17 provide not more than 4 quarterly payments to  
18 such account, and the aggregate amount of  
19 such payments shall not exceed the lesser of—

20 (i)(I) in the case of a displaced stu-  
21 dent who is not served under part B of the  
22 Individuals with Disabilities Education Act  
23 (20 U.S.C. 1411 et seq.), \$6,000; or

24 (II) in the case of a displaced student  
25 who is served under part B of the Individ-

1 uals with Disabilities Education Act,  
2 \$7,500; or

3 (ii) the cost of tuition and fees (and  
4 transportation expenses, if any) at the  
5 non-public school for the 2005–2006 school  
6 year.

7 (e) USE OF FUNDS.—

8 (1) DISPLACED STUDENTS IN PUBLIC  
9 SCHOOLS.—An eligible local educational agency or  
10 eligible BIA-funded school receiving emergency im-  
11 pact aid payments under this section shall use the  
12 payments to provide instructional opportunities for  
13 displaced students who enroll in elementary schools  
14 and secondary schools (including charter schools)  
15 served by such agency or in such a school, and for  
16 other expenses incurred as a result of the agency or  
17 school serving displaced students, which uses may  
18 include—

19 (A) paying the compensation of personnel,  
20 including teacher aides, in schools enrolling dis-  
21 placed students;

22 (B) identifying and acquiring curricular  
23 material, including the costs of providing addi-  
24 tional classroom supplies, and mobile edu-  
25 cational units and leasing sites or spaces;

1 (C) basic instructional services for such  
2 students, including tutoring, mentoring, or aca-  
3 demic counseling;

4 (D) reasonable transportation costs;

5 (E) health services (including counseling  
6 and mental health services); and

7 (F) education and support services.

8 (2) DISPLACED STUDENTS IN NON-PUBLIC  
9 SCHOOLS.—

10 (A) IN GENERAL.—An eligible local edu-  
11 cational agency that receives emergency impact  
12 aid payments under this section and that serves  
13 an area in which there is located an eligible  
14 non-public school shall, at the request of the  
15 parent or guardian of a displaced student who  
16 meets the criteria described in subsection  
17 (c)(2)(A)(ii) and who enrolled in a non-public  
18 school in an area served by the agency, use  
19 such emergency impact aid payment to provide  
20 payment on a quarterly basis (but not to exceed  
21 the total amount specified in subsection  
22 (d)(2)(B) for the 2005–2006 school year) to an  
23 account on behalf of such displaced student,  
24 which payment shall be used to assist in paying  
25 for any of the following:

1 (i) Paying the compensation of per-  
2 sonnel, including teacher aides, in the non-  
3 public school, which funds shall not be  
4 used for religious instruction, proselytiza-  
5 tion, or worship.

6 (ii) Identifying and acquiring cur-  
7 ricular material, including the costs of pro-  
8 viding additional classroom supplies (which  
9 shall be secular, neutral, and shall not  
10 have a religious component), and mobile  
11 educational units and leasing sites or  
12 spaces, which shall not be used for reli-  
13 gious instruction, proselytization, or wor-  
14 ship.

15 (iii) Basic instructional services, in-  
16 cluding tutoring, mentoring, or academic  
17 counseling, which services shall be secular  
18 and neutral and shall not be used for reli-  
19 gious instruction, proselytization, or wor-  
20 ship.

21 (iv) Reasonable transportation costs.

22 (v) Health services (including coun-  
23 seling and mental health services), which  
24 services shall be secular and neutral and

1 shall not be used for religious instruction,  
2 proselytization, or worship.

3 (vi) Education and support services,  
4 which services shall be secular and neutral  
5 and shall not be used for religious instruc-  
6 tion, proselytization, or worship.

7 (B) VERIFICATION OF ENROLLMENT.—Be-  
8 fore providing a quarterly payment to an ac-  
9 count under subparagraph (A), the eligible local  
10 educational agency shall verify with the parent  
11 or guardian of a displaced student that such  
12 displaced student is enrolled in the non-public  
13 school.

14 (3) PROVISION OF SPECIAL EDUCATION AND  
15 RELATED SERVICES.—

16 (A) IN GENERAL.—In the case of a dis-  
17 placed student who is served under part B of  
18 the Individuals with Disabilities Education Act  
19 (20 U.S.C. 1411 et seq.), any payment made on  
20 behalf of such student to an eligible local edu-  
21 cational agency or any payment available in an  
22 account for such student, shall be used to pay  
23 the cost of providing the student with special  
24 education and related services consistent with

1 the Individuals with Disabilities Education Act  
2 (20 U.S.C. 1400 et seq.).

3 (B) SPECIAL RULE.—

4 (i) RETENTION.—Notwithstanding  
5 any other provision of this section, if an el-  
6 igible local educational agency provides  
7 services to a displaced student attending  
8 an eligible non-public school under section  
9 612(a)(10) of the Individuals with Disabil-  
10 ities Education Act (20 U.S.C.  
11 1412(a)(10)), the eligible local educational  
12 agency may retain a portion of the assist-  
13 ance received under this section for such  
14 student to pay the cost of providing such  
15 services.

16 (ii) DETERMINATION OF PORTION.—

17 (I) GUIDELINES.—Each State  
18 shall issue guidelines that specify the  
19 portion of the assistance that an eligi-  
20 ble local educational agency in the  
21 State may retain under this subpara-  
22 graph. Each State shall apply such  
23 guidelines in a consistent manner  
24 throughout the State.

1 (II) DETERMINATION OF POR-  
2 TION.—The portion specified in the  
3 guidelines shall be based on cus-  
4 tomary costs of providing services  
5 under such section 612(a)(10) for the  
6 local educational agency.

7 (C) DEFINITIONS.—In this paragraph:

8 (i) SPECIAL EDUCATION; RELATED  
9 SERVICES.—The terms “special education”  
10 and “related services” have the meaning  
11 given such terms in section 602 of the In-  
12 dividuals with Disabilities Education Act  
13 (20 U.S.C. 1401).

14 (ii) INDIVIDUALIZED EDUCATION PRO-  
15 GRAM.—The term “individualized edu-  
16 cation program” has the meaning given  
17 the term in section 614(d)(2) of the Indi-  
18 viduals with Disabilities Education Act (20  
19 U.S.C. 1414(d)(2)).

20 (f) RETURN OF AID.—

21 (1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR  
22 ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local  
23 educational agency or eligible BIA-funded school  
24 that receives an emergency impact aid payment  
25 under this section shall return to the State edu-

1 cational agency any payment provided to the eligible  
2 local educational agency or school under this section  
3 that the eligible local educational agency or school  
4 has not obligated by the end of the 2005–2006  
5 school year in accordance with this section.

6 (2) STATE EDUCATIONAL AGENCY.—A State  
7 educational agency that receives emergency impact  
8 aid under this section, shall return to the Secretary  
9 of Education—

10 (A) any aid provided to the agency under  
11 this section that the agency has not obligated  
12 by the end of the 2005–2006 school year in ac-  
13 cordance with this section; and

14 (B) any payment funds returned to the  
15 State educational agency under paragraph (1).

16 (g) LIMITATION ON USE OF AID AND PAYMENTS.—  
17 Aid and payments provided under this section shall only  
18 be used for expenses incurred during the 2005–2006  
19 school year.

20 (h) ADMINISTRATIVE EXPENSES.—A State edu-  
21 cational agency that receives emergency impact aid under  
22 this section may use not more than 1 percent of such aid  
23 for administrative expenses. An eligible local educational  
24 agency or eligible BIA-funded school that receives emer-  
25 gency impact aid payments under this section may use not

1 more than 2 percent of such payments for administrative  
2 expenses.

3 (i) SPECIAL FUNDING RULE.—In calculating funding  
4 under section 8003 of the Elementary and Secondary  
5 Education Act of 1965 (20 U.S.C. 7703) for an eligible  
6 local educational agency that receives an emergency im-  
7 pact aid payment under this section, the Secretary of Edu-  
8 cation shall not count displaced students served by such  
9 agency for whom an emergency impact aid payment is re-  
10 ceived under this section, nor shall such students be count-  
11 ed for the purpose of calculating the total number of chil-  
12 dren in average daily attendance at the schools served by  
13 such agency as provided in section 8003(b)(3)(B)(i) of  
14 such Act (20 U.S.C. 7703(b)(3)(B)(i)).

15 (j) NOTICE OF OPTION OF PUBLIC SCHOOL OR NON-  
16 PUBLIC SCHOOL ENROLLMENT.—Each State receiving  
17 emergency impact aid under this section shall provide, to  
18 the parent or guardian of each displaced student for whom  
19 a payment is made under this section to an account who  
20 resides in such State, notification that such parent or  
21 guardian has the option of enrolling such student in a pub-  
22 lic school or a non-public school.

23 (k) BY-PASS.—If a State educational agency or eligi-  
24 ble local educational agency is unable to carry out this  
25 section, the Secretary of Education may make such ar-

1 rangements with the State as the Secretary determines ap-  
2 propriate to carry out this section on behalf of displaced  
3 students attending an eligible non-public school in the area  
4 served by such agency. For a State in which State law  
5 prohibits the State from using Federal funds to directly  
6 provide services on behalf of students attending non-public  
7 schools and provides that another entity shall provide such  
8 services, the Secretary of Education shall make such ar-  
9 rangements with that entity.

10 (l) NONDISCRIMINATION.—

11 (1) IN GENERAL.—A school that enrolls a dis-  
12 placed student under this section shall not discrimi-  
13 nate against students on the basis of race, color, na-  
14 tional origin, religion, disability, or sex.

15 (2) APPLICABILITY AND SINGLE SEX SCHOOLS,  
16 CLASSES, OR ACTIVITIES.—

17 (A) IN GENERAL.—To the extent con-  
18 sistent with title IX of the Education Amend-  
19 ments of 1972 (20 U.S.C. 1681 et seq.), the  
20 prohibition of sex discrimination in paragraph  
21 (1) shall not apply to a non-public school that  
22 is controlled by a religious organization if the  
23 application of paragraph (1) would not be con-  
24 sistent with the religious tenets of such organi-  
25 zation.

1           (B) SINGLE SEX SCHOOLS, CLASSES, OR  
2           ACTIVITIES.—Notwithstanding paragraph (1)  
3           and to the extent consistent with title IX of the  
4           Education Amendments of 1972, a parent or  
5           guardian may choose and a non-public school  
6           may offer a single sex school, class, or activity.

7           (C) ENROLLMENT.—The prohibition of re-  
8           ligious discrimination in paragraph (1) shall not  
9           apply with regard to enrollment for a non-pub-  
10          lic school that is controlled by a religious orga-  
11          nization, except in the case of the enrollment of  
12          displaced students assisted under this section.

13          (3) GENERAL PROVISION.—Nothing in this sec-  
14          tion may be construed to alter or modify the provi-  
15          sions of the Individuals with Disabilities Education  
16          Act (20 U.S.C. 1400 et seq.), title VI of the Civil  
17          Rights Act of 1964 (42 U.S.C. 2000d et seq.), title  
18          IX of the Education Amendments of 1972 (20  
19          U.S.C. 1681 et seq.), and the Rehabilitation Act of  
20          1973 (29 U.S.C. 701 et seq.).

21          (4) OPT-IN.—A displaced student assisted  
22          under this section who is enrolled in a non-public  
23          school shall not participate in religious worship or  
24          religious classes at such school unless such student's

1 parent or guardian chooses to opt-in such student  
2 for such religious worship or religious classes.

3 (5) **RULE OF CONSTRUCTION.**—The amount of  
4 any payment (or other form of support provided on  
5 behalf of a displaced student) under this section  
6 shall not be treated as income of a parent or guard-  
7 ian of the student for purposes of Federal tax laws  
8 or for determining eligibility for any other Federal  
9 program.

10 (m) **TREATMENT OF STATE AID.**—A State shall not  
11 take into consideration emergency impact aid payments  
12 received under this section by a local educational agency  
13 in the State in determining the eligibility of such local edu-  
14 cational agency for State aid, or the amount of State aid,  
15 with respect to free public education of children.

16 **SEC. 7953. ORIGINATION FEES FOR STUDENT LOANS.**

17 (a) **SPECIAL ALLOWANCES.**—Notwithstanding sec-  
18 tion 438(c)(2) of the Higher Education Act of 1965 (as  
19 amended by this Act) (20 U.S.C. 1087–1(c)(2)), subpara-  
20 graph (A) of section 438(c)(2) of such Act shall be applied  
21 by substituting “2.0 percent” for “3.0 percent” with re-  
22 spect to loans for which the first disbursement of principal  
23 is made on or after July 1, 2007.

24 (b) **ORIGINATION FEES FOR FEDERAL DIRECT**  
25 **LOANS.**—Notwithstanding subsection (c) of section 455 of

1 the Higher Education Act of 1965 (as amended by this  
2 Act) (20 U.S.C. 1087e(c)), the second sentence of such  
3 subsection shall be applied by substituting “2.0 percent”  
4 for “2.5 percent” with respect to loans for which the first  
5 disbursement of principal is made on or after July 1,  
6 2007.

7 (c) REPEAL OF ORIGINATION FEES.—

8 (1) AMENDMENTS.—Sections 438(c) and 455(c)  
9 of the Higher Education Act of 1965 (20 U.S.C.  
10 1087–1(c), 1087e(c)) are repealed.

11 (2) EFFECTIVE DATE.—The amendments made  
12 by paragraph (1) shall take effect on July 1, 2011.

13 (d) NONAPPLICABILITY OF SUNSET PROVISION.—  
14 Section 7959 shall not apply to this section or to the  
15 amendments made by this section.

16 **SEC. 7954. AUTHORIZATION AND APPROPRIATION OF**  
17 **FUNDS.**

18 There are authorized to be appropriated, and there  
19 are appropriated, out of any money in the Treasury not  
20 otherwise appropriated, \$1,660,000,000 to carry out this  
21 subtitle, of which—

22 (1) \$450,000,000 shall be available to carry out  
23 section 7952;

24 (2) \$10,000,000 shall be available to carry out  
25 section 7955; and

1           (3) \$1,200,000,000 shall be available to carry  
2           out section 7956.

3 **SEC. 7955. SUNSET PROVISION.**

4           Except as otherwise provided in this subtitle, the pro-  
5           visions of this subtitle shall be effective for the period be-  
6           ginning on the date of enactment of this Act and ending  
7           on August 1, 2006.

8 **TITLE VIII—COMMITTEE ON THE**  
9 **JUDICIARY**

10 **SEC. 8001. RECAPTURE OF UNUSED VISA NUMBERS.**

11           (a) RECAPTURE OF UNUSED EMPLOYMENT-BASED  
12 IMMIGRANT VISAS.—Section 201(d) of the Immigration  
13 and Nationality Act (8 U.S.C. 1151(d)) is amended—

14           (1) in paragraph (2)(C)—

15           (A) by striking “is the difference” and in-  
16           serting “is the sum of—

17           “ (i) the difference”; and

18           (B) by striking the period at the end and  
19           inserting the following: “; and

20           “(ii) the lesser of—

21           “(I) the number of immigrant  
22           visas that were available in any pre-  
23           vious fiscal year to employment-based  
24           immigrants (and their family mem-  
25           bers accompanying or following to join

1 under section 203(d)) and that were  
2 not issued for that fiscal year or for  
3 any subsequent fiscal year, excluding  
4 those immigrant visas reserved for  
5 employment-based immigrants for an  
6 occupation listed in schedule A of sec-  
7 tion 656.5 of title 20, Code of Federal  
8 Regulations; and

9 “(II) 90,000.”; and

10 (2) by adding at the end the following:

11 “(3) Immigrant visas issued on or after October  
12 1, 2004, to spouses and children of employment-  
13 based immigrants shall not be counted against the  
14 numerical limitation set forth in paragraph (1).”.

15 (b) SUPPLEMENTAL PETITION FEE.—Section  
16 204(a)(1) of the Immigration and Nationality Act (8  
17 U.S.C. 1154(a)(1)) is amended—

18 (1) in subparagraph (E), by adding at the end  
19 the following: “Such petition shall be accompanied  
20 by a supplemental petition fee in the amount of  
21 \$500.”; and

22 (2) in subparagraph (F), by adding at the end  
23 the following: “Such petition shall be accompanied  
24 by a supplemental petition fee in the amount of  
25 \$500.”.

1 (c) ADJUSTMENT OF STATUS.—

2 (1) IN GENERAL.—Section 245(a) of the Immi-  
3 gration and Nationality Act (8 U.S.C. 1255(a)) is  
4 amended to read as follows:

5 “(a)(1) The status of an alien who was inspected and  
6 admitted or paroled into the United States or the status  
7 of any other alien having an approved petition for classi-  
8 fication under subparagraph (A)(iii), (A)(iv), (B)(ii), or  
9 (B)(iii) of section 204(a)(1) may be adjusted by the Sec-  
10 retary of Homeland Security or the Attorney General, in  
11 the discretion of the Secretary or Attorney General, and  
12 under such regulations as the Secretary or Attorney Gen-  
13 eral may prescribe, to that of an alien lawfully admitted  
14 for permanent residence if—

15 “(A) the alien makes an application for such  
16 adjustment;

17 “(B) the alien is eligible to receive an immi-  
18 grant visa and is admissible to the United States for  
19 permanent residence; and

20 “(C) an immigrant visa is immediately available  
21 to the alien at the time the application is filed.

22 “(2) If a supplemental petition fee is paid for any  
23 petition under subparagraph (E) or (F) of section  
24 204(a)(1), an application under paragraph (1) of this sub-  
25 section on behalf of an alien beneficiary of such petition

1 (including a spouse or child who is accompanying or fol-  
2 lowing to join the principal beneficiary) may be filed with-  
3 out regard to the limitation set forth in paragraph (1)(C).  
4 An application for adjustment of status filed under this  
5 paragraph may not be approved until such time as an im-  
6 migrant visa becomes available.”.

7           (2) PENDING APPLICATIONS.—An alien on  
8 whose behalf a petition was pending under subpara-  
9 graph (E) or (F) of section 204(a)(1) of the Immig-  
10 ration and Nationality Act (8 U.S.C. 1154(a)(1)),  
11 on the date of enactment of this Act may, upon the  
12 payment of the supplemental petition fee set forth in  
13 such section, apply for adjustment of status under  
14 this subsection without regard to the limitation set  
15 forth in section 245(a)(1)(C) of the Immigration and  
16 Nationality Act (8 U.S.C. 1255(a)(1)(C)), as amend-  
17 ed by paragraph (1).

18           (d) RECAPTURE OF UNUSED H-1B VISA NUM-  
19 BERS.—Section 214(g) of the Immigration and Nation-  
20 ality Act (8 U.S.C. 1184(g)) is amended—

21           (1) by redesignating paragraphs (9) through  
22 (11) as paragraphs (10) through (12), respectively;  
23 and

24           (2) by inserting after paragraph (8) the fol-  
25 lowing:

1           “(9)(A) If the numerical limitation in para-  
2           graph (1)(A) for fiscal year 2006 or a subsequent  
3           fiscal year has been reached, such numerical limita-  
4           tion shall be supplemented in a number equal to the  
5           lesser of—

6                   “(i) the cumulative total number of visas  
7                   that were available in all prior fiscal years sub-  
8                   sequent to fiscal year 1991, and not issued for  
9                   each such fiscal year or any subsequent fiscal  
10                  year; and

11                   “(ii) 30,000.

12                  “(B) Any petition filed after the numerical limi-  
13                  tation set forth in paragraph (1)(A) has been  
14                  reached for that fiscal year, and seeking an H-1B  
15                  visa number recaptured under subparagraph (A) of  
16                  this paragraph, shall be accompanied by an H-1B  
17                  recapture fee in the amount of \$500.”.

18           (e) CONFORMING AMENDMENT.—Section 286(m) of  
19           the Immigration and Nationality Act (8 U.S.C. 1356(m))  
20           is amended by inserting “, including those fees provided  
21           for in subparagraphs (E) and (F) of section 204(a)(1) and  
22           subsections (c)(15) and (g)(9)(B) of section 214,” after  
23           “all adjudication fees”.

24           (f) EXPENDITURE LIMITATION.—Amounts collected  
25           under subparagraphs (E) and (F) of section 204(a)(1)

1 and subsections (c)(15) and (g)(9)(B) of section 214 of  
2 the Immigration and Nationality Act, as amended by this  
3 Act, may not be expended unless specifically appropriated  
4 by an Act of Congress.

5 **SEC. 8002. FEES WITH RESPECT TO IMMIGRATION SERV-**  
6 **ICES FOR INTRACOMPANY TRANSFEREES.**

7 Section 214(c) of the Immigration and Nationality  
8 Act (8 U.S.C. 1184(c)) is amended by adding at the end  
9 the following:

10 “(15)(A) The Secretary of State shall impose a fee  
11 on an employer when an alien files an application abroad  
12 for a visa authorizing initial admission to the United  
13 States as a nonimmigrant described in section  
14 101(a)(15)(L) in order to be employed by the employer,  
15 if the alien is covered under a blanket petition described  
16 in paragraph (2)(A).

17 “(B) The Secretary of Homeland Security shall im-  
18 pose a fee on an employer filing a petition under para-  
19 graph (1) initially to grant an alien nonimmigrant status  
20 described in section 101(a)(15)(L) or to extend for the  
21 first time the stay of an alien having such status.

22 “(C) The amount of the fee imposed under subpara-  
23 graph (A) or (B) shall be \$750.

24 “(D) The fees imposed under subparagraphs (A) and  
25 (B) shall only apply to principal aliens and not to spouses

1 or children who are accompanying or following to join such  
2 principal aliens.

3 “(E)(i) An employer may not require an alien who  
4 is the beneficiary of the visa or petition for which a fee  
5 is imposed under this paragraph to reimburse, or other-  
6 wise compensate, the employer for part or all of the cost  
7 of such fee.

8 “(ii) Section 274A(g)(2) shall apply to a violation of  
9 clause (i) in the same manner as it applies to a violation  
10 of section 274A(g)(1).”.

11 **SEC. 8003. JUSTICE PROGRAMS.**

12 (a) IN GENERAL.—The Secretary of the Treasury—

13 (1) for fiscal year 2006, out of the funds in the  
14 Treasury not otherwise appropriated, shall pay to  
15 the Attorney General, by December 31, 2005, the  
16 amounts listed in subsection (b) that are to be pro-  
17 vided for fiscal year 2006; and

18 (2) for each subsequent fiscal year provided in  
19 subsection (b) out of funds in the Treasury not oth-  
20 erwise appropriated, shall pay to the Attorney Gen-  
21 eral the amounts provided by November 1 of each  
22 such fiscal year.

23 (b) AMOUNTS PROVIDED.—The amounts referred to  
24 in subsection (a), which shall be in addition to funds ap-  
25 propriated for each fiscal year, are—

1           (1) \$8,000,000 for fiscal year 2006,  
2           \$17,000,000 for fiscal year 2007, \$15,000,000 for  
3           fiscal year 2008, \$10,000,000 for fiscal year 2009,  
4           and \$10,000,000 for fiscal year 2010, to fund the  
5           Bulletproof Vest Partnership Program as authorized  
6           under section 4 of Public Law 108–372.

7           (2) \$3,700,000 for fiscal year 2006, \$6,300,000  
8           for fiscal year 2007, \$5,000,000 for fiscal year  
9           2008, \$5,000,000 for fiscal year 2009, and  
10          \$5,000,000 for fiscal year 2010, to fund DNA  
11          Training and Education for Law Enforcement, Cor-  
12          rectional Personnel, and Court Officers as author-  
13          ized by section 303 of Public Law 108–405.

14          (3) \$8,000,000 for fiscal year 2006,  
15          \$12,000,000 for fiscal year 2007, \$10,000,000 for  
16          fiscal year 2008, \$10,000,000 for fiscal year 2009,  
17          and \$10,000,000 for fiscal year 2010, to fund DNA  
18          Research and Development as authorized by section  
19          305 of Public Law 108–405.

20          (4) \$500,000 for fiscal year 2006, \$500,000 for  
21          fiscal year 2007, \$500,000 for fiscal year 2008,  
22          \$500,000 for fiscal year 2009, and \$500,000 for fis-  
23          cal year 2010, to fund the National Forensic Science  
24          Commission as authorized by section 306 of Public  
25          Law 108–405.

1           (5) \$1,000,000 for fiscal year 2006, \$1,000,000  
2 for fiscal year 2007, \$1,000,000 for fiscal year  
3 2008, \$1,000,000 for fiscal year 2009, and  
4 \$1,000,000 for fiscal year 2010, to fund DNA Iden-  
5 tification of Missing Persons as authorized by sec-  
6 tion 308 of Public Law 108–405.

7           (6) \$8,000,000 for fiscal year 2006,  
8 \$27,000,000 for fiscal year 2007, \$26,000,000 for  
9 fiscal year 2008, \$25,000,000 for fiscal year 2009,  
10 and \$25,000,000 for fiscal year 2010, to fund Cap-  
11 ital Litigation Improvement Grants as authorized by  
12 sections 421, 422, and 426 of Public Law 108–405.

13           (7) \$2,500,000 for fiscal year 2006, \$3,000,000  
14 for fiscal year 2007, \$2,500,000 for fiscal year  
15 2008, \$2,500,000 for fiscal year 2009, and  
16 \$2,500,000 for fiscal year 2010, to fund the Kirk  
17 Bloodsworth Post-Conviction DNA Testing Grant  
18 Program as authorized by sections 412 and 413 of  
19 Public Law 108–405.

20           (8) \$1,000,000 for fiscal year 2006, \$1,000,000  
21 for fiscal year 2007, \$1,000,000 for fiscal year  
22 2008, \$1,000,000 for fiscal year 2009, and  
23 \$1,000,000 for fiscal year 2010, to fund Increased  
24 Resources for Enforcement of Crime Victims Rights,  
25 Crime Victims Notification Grants as authorized by

1 section 1404D of the Victims of Crime Act of 1984  
2 (42 U.S.C. 10603d).

3 (c) OBLIGATION OF FUNDS.—The Attorney General  
4 shall—

5 (1) receive funds under this section for fiscal  
6 years 2006 through 2010; and

7 (2) accept such funds in the amounts provided  
8 which shall be obligated for the purposes stated in  
9 this section by March 1 of each fiscal year.

10 **SEC. 8004. COPYRIGHT PROGRAM.**

11 (a) IN GENERAL.—The Secretary of the Treasury—

12 (1) for fiscal year 2006, out of the funds in the  
13 Treasury not otherwise appropriated, shall pay to  
14 the Librarian of the Congress, by December 31,  
15 2005, the amounts listed in subsection (b) that are  
16 to be provided for fiscal year 2006; and

17 (2) for each subsequent fiscal year provided in  
18 subsection (b) out of funds in the Treasury not oth-  
19 erwise appropriated shall pay to the Librarian of the  
20 Congress the amounts provided by November 1 of  
21 each such fiscal year.

22 (b) AMOUNTS PROVIDED.—The amounts referred to  
23 in subsection (a), which shall be in addition to funds ap-  
24 propriated for each fiscal year, are: \$1,300,000 for fiscal  
25 year 2006, \$1,300,000 for fiscal year 2007, \$1,300,000

1 for fiscal year 2008, \$1,300,000 for fiscal year 2009, and  
2 \$1,300,000 for fiscal year 2010, to fund the Copyright  
3 Royalty Judges Program as authorized under section  
4 803(e)(1)(B) of title 17, United States Code.

5 (c) OBLIGATION OF FUNDS.—The Librarian of the  
6 Congress shall—

7 (1) receive funds under this section for fiscal  
8 years 2006 through 2010; and

9 (2) accept such funds in the amounts provided  
10 which shall be obligated for the purposes stated in  
11 this section by March 1 of each fiscal year.

12 **DIVISION A—AMTRAK**  
13 **REAUTHORIZATION**

14 **SECTION 1. SHORT TITLE.**

15 This division may be cited as the “Passenger Rail In-  
16 vestment and Improvement Act of 2005”.

17 **SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

18 Except as otherwise specifically provided, whenever in  
19 this division an amendment is expressed in terms of an  
20 amendment to a section or other provision of law, the ref-  
21 erence shall be considered to be made to a section or other  
22 provision of title 49, United States Code.

# **TITLE I—AUTHORIZATIONS**

## **SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OPERATING EXPENSES AND STATE CAPITAL GRANTS.**

(a) OPERATING GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

- (1) For fiscal year 2006, \$580,000,000.
- (2) For fiscal year 2007, \$590,000,000.
- (3) For fiscal year 2008, \$600,000,000.
- (4) For fiscal year 2009, \$575,000,000.
- (5) For fiscal year 2010, \$535,000,000.
- (6) For fiscal year 2011, \$455,000,000.

(b) CAPITAL GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital projects (as defined in subparagraphs (A) and (B) of section 24401(2) of title 49, United States Code) to bring the Northeast Corridor (as defined in section 24102(a)) to a state-of-good-repair, for capital expenses of the national railroad passenger transportation system, and for purposes of making capital grants under section 24402 of that title to States, the following amounts:

- (1) For fiscal year 2006, \$813,000,000.
- (2) For fiscal year 2007, \$910,000,000.

1 (3) For fiscal year 2008, \$1,071,000,000.

2 (4) For fiscal year 2009, \$1,096,000,000.

3 (5) For fiscal year 2010, \$1,191,000,000.

4 (6) For fiscal year 2011, \$1,231,000,000.

5 (c) AMOUNTS FOR STATE GRANTS.—Out of the  
6 amounts authorized under subsection (b), the following  
7 percentage shall be available each fiscal year for capital  
8 grants to States under section 24402 of title 49, United  
9 States Code, to be administered by the Secretary of Trans-  
10 portation:

11 (1) 3 percent for fiscal year 2006.

12 (2) 11 percent for fiscal year 2007.

13 (3) 23 percent for fiscal year 2008.

14 (4) 25 percent for fiscal year 2009.

15 (5) 31 percent for fiscal year 2010.

16 (6) 33 percent for fiscal year 2011.

17 (d) PROJECT MANAGEMENT OVERSIGHT.—The Sec-  
18 retary may withhold up to  $\frac{1}{2}$  of 1 percent of amounts  
19 appropriated pursuant to subsection (b) for the costs of  
20 project management oversight of capital projects carried  
21 out by Amtrak.

22 **SEC. 102. AUTHORIZATION FOR THE FEDERAL RAILROAD**  
23 **ADMINISTRATION.**

24 There are authorized to be appropriated to the Sec-  
25 retary of Transportation for the use of the Federal Rail-

1 road Administration such sums as necessary to implement  
 2 the provisions required under this division for fiscal years  
 3 2006 through 2011.

4 **SEC. 103. REPAYMENT OF LONG-TERM DEBT AND CAPITAL**  
 5 **LEASES.**

6 (a) AMTRAK PRINCIPAL AND INTEREST PAY-  
 7 MENTS.—

8 (1) PRINCIPAL ON DEBT SERVICE.—There are  
 9 authorized to be appropriated to the Secretary of  
 10 Transportation for the use of Amtrak for retirement  
 11 of principal on loans for capital equipment, or cap-  
 12 ital leases, not more than the following amounts:

13 (A) For fiscal year 2006, \$130,200,000.

14 (B) For fiscal year 2007, \$140,700,000.

15 (C) For fiscal year 2008, \$156,000,000.

16 (D) For fiscal year 2009, \$183,800,000.

17 (E) For fiscal year 2010, \$156,100,000.

18 (F) For fiscal year 2011, \$193,500,000.

19 (2) INTEREST ON DEBT.—There are authorized  
 20 to be appropriated to the Secretary of Transpor-  
 21 tation for the use of Amtrak for the payment of in-  
 22 terest on loans for capital equipment, or capital  
 23 leases, the following amounts:

24 (A) For fiscal year 2006, \$148,100,000.

25 (B) For fiscal year 2007, \$141,500,000.

1 (C) For fiscal year 2008, \$133,800,000.

2 (D) For fiscal year 2009, \$124,000,000.

3 (E) For fiscal year 2010, \$113,900,000.

4 (F) For fiscal year 2011, \$103,800,000.

5 (3) EARLY BUYOUT OPTION.—There are au-  
6 thORIZED to be appropriated to the Secretary of  
7 Transportation such sums as may be necessary for  
8 the use of Amtrak for the payment of costs associ-  
9 ated with early buyout options if the exercise of  
10 those options is determined to be advantageous to  
11 Amtrak.

12 (4) LEGAL EFFECT OF PAYMENTS UNDER THIS  
13 SECTION.—The payment of principal and interest on  
14 secured debt, with the proceeds of grants authorized  
15 by this section shall not—

16 (A) modify the extent or nature of any in-  
17 debtedness of the National Railroad Passenger  
18 Corporation to the United States in existence of  
19 the date of enactment of this Act;

20 (B) change the private nature of Amtrak's  
21 or its successors' liabilities; or

22 (C) imply any Federal guarantee or com-  
23 mitment to amortize Amtrak's outstanding in-  
24 debtedness.

1 **SEC. 104. EXCESS RAILROAD RETIREMENT.**

2       There are authorized to be appropriated to the Sec-  
3 retary of Transportation, beginning with fiscal year 2006,  
4 such sums as may be necessary to pay to the Railroad  
5 Retirement Account an amount equal to the amount Am-  
6 trak must pay under section 3221 of the Internal Revenue  
7 Code of 1986 in such fiscal years that is more than the  
8 amount needed for benefits for individuals who retire from  
9 Amtrak and for their beneficiaries. For each fiscal year  
10 in which the Secretary makes such a payment, the  
11 amounts authorized by section 101(a) shall be reduced by  
12 an amount equal to such payment.

13 **SEC. 105. OTHER AUTHORIZATIONS.**

14       There are authorized to be appropriated to the Sec-  
15 retary of Transportation—

16           (1) \$5,000,000 for each of fiscal years 2006  
17       through 2011 to carry out the rail cooperative re-  
18       search program under section 24910 of title 49,  
19       United States Code;

20           (2) \$5,000,000 for fiscal year 2006, to remain  
21       available until expended, for grants to Amtrak and  
22       States participating in the Next Generation Corridor  
23       Train Equipment Pool Committee established under  
24       section 303 of this division for the purpose of de-  
25       signing, developing specifications for, and initiating  
26       the procurement of an initial order of 1 or more

1 types of standardized next-generation corridor train  
 2 equipment and establishing a jointly-owned corpora-  
 3 tion to manage that equipment; and

4 (3) \$2,000,000 for fiscal year 2007, for the use  
 5 of Amtrak in conducting the evaluation required by  
 6 section 216 of this division.

7 **TITLE II—AMTRAK REFORM AND**  
 8 **OPERATIONAL IMPROVEMENTS**

9 **SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPOR-**  
 10 **TATION SYSTEM DEFINED.**

11 (a) IN GENERAL.—Section 24102 is amended—

12 (1) by striking paragraph (2);

13 (2) by redesignating paragraphs (3), (4), and  
 14 (5) as paragraphs (2), (3), and (4), respectively; and

15 (3) by inserting after paragraph (4) as so re-  
 16 designated the following:

17 “(5) ‘national rail passenger transportation sys-  
 18 tem’ means—

19 “(A) the segment of the Northeast Cor-  
 20 ridor between Boston, Massachusetts and  
 21 Washington, D.C.;

22 “(B) rail corridors that have been des-  
 23 ignated by the Secretary of Transportation as  
 24 high-speed corridors (other than corridors de-  
 25 scribed in subparagraph (A)), but only after

1 they have been improved to permit operation of  
2 high-speed service;

3 “(C) long distance routes of more than  
4 750 miles between endpoints operated by Am-  
5 trak as of the date of enactment of the Pas-  
6 senger Rail Investment and Improvement Act of  
7 2005; and

8 “(D) short-distance corridors, or routes of  
9 not more than 750 miles between endpoints, op-  
10 erated by—

11 “(i) Amtrak; or

12 “(ii) another rail carrier that receives  
13 funds under chapter 244.”.

14 (b) AMTRAK ROUTES WITH STATE FUNDING.—

15 (1) IN GENERAL.—Chapter 247 is amended by  
16 inserting after section 24701 the following:

17 **“§ 24702. Transportation requested by States, au-**  
18 **thorities, and other persons**

19 “(a) CONTRACTS FOR TRANSPORTATION.—Amtrak  
20 may enter into a contract with a State, a regional or local  
21 authority, or another person for Amtrak to operate an  
22 intercity rail service or route not included in the national  
23 rail passenger transportation system upon such terms as  
24 the parties thereto may agree.

1       “(b) DISCONTINUANCE.—Upon termination of a con-  
 2 tract entered into under this section, or the cessation of  
 3 financial support under such a contract by either party,  
 4 Amtrak may discontinue such service or route, notwith-  
 5 standing any other provision of law.”.

6           (2) CONFORMING AMENDMENT.—The chapter  
 7 analysis for chapter 247 is amended by inserting  
 8 after the item relating to section 24701 the fol-  
 9 lowing:

“24702. Transportation requested by States, authorities, and other persons”.

10       (c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-  
 11 SPEED SERVICES.—Nothing in this division is intended to  
 12 preclude Amtrak from restoring, improving, or developing  
 13 non-high-speed intercity passenger rail service.

14       (d) APPLICABILITY OF SECTION 24706.—Section  
 15 24706 is amended by adding at the end the following:

16       “(c) APPLICABILITY.—This section applies to all  
 17 service over routes provided by Amtrak, notwithstanding  
 18 any provision of section 24701 of this title or any other  
 19 provision of this title except section 24702(b).”.

20 **SEC. 202. AMTRAK BOARD OF DIRECTORS.**

21       (a) IN GENERAL.—Section 24302 is amended to read  
 22 as follows:

23 **“§ 24302. Board of directors**

24       “(a) COMPOSITION AND TERMS.—

1           “(1) The Board of Directors of Amtrak is com-  
2 posed of the following 10 directors, each of whom  
3 must be a citizen of the United States:

4                   “(A) The Secretary of Transportation.

5                   “(B) The President of Amtrak, who shall  
6 serve *ex officio*, as a non-voting member.

7                   “(C) 8 individuals appointed by the Presi-  
8 dent of the United States, by and with the ad-  
9 vice and consent of the Senate, with general  
10 business and financial experience, experience or  
11 qualifications in transportation, freight and  
12 passenger rail transportation, travel, hospi-  
13 tality, cruise line, and passenger air transpor-  
14 tation businesses, or representatives of employ-  
15 ees or users of passenger rail transportation or  
16 a State government.

17           “(2) In selecting individuals described in para-  
18 graph (1) for nominations for appointments to the  
19 Board, the President shall consult with the Speaker  
20 of the House of Representatives, the Minority Lead-  
21 er of the House of Representatives, the Majority  
22 Leader of the Senate, and the Minority Leader of  
23 the Senate and try to provide adequate and balanced  
24 representation of the major geographic regions of  
25 the United States served by Amtrak.

1           “(3) An individual appointed under paragraph  
2           (1)(C) of this subsection serves for 5 years or until  
3           the individual’s successor is appointed and qualified.  
4           Not more than 5 individuals appointed under para-  
5           graph (1)(C) may be members of the same political  
6           party.

7           “(4) The Board shall elect a chairman and a  
8           vice chairman from among its membership. The vice  
9           chairman shall serve as chairman in the absence of  
10          the chairman.

11          “(5) The Secretary may be represented at  
12          board meetings by the Secretary’s designee.

13          “(6) The voting privileges of the President can  
14          be changed by a unanimous decision of the Board.

15          “(b) PAY AND EXPENSES.—Each director not em-  
16          ployed by the United States Government is entitled to  
17          \$300 a day when performing Board duties. Each Director  
18          is entitled to reimbursement for necessary travel, reason-  
19          able secretarial and professional staff support, and sub-  
20          sistence expenses incurred in attending Board meetings.

21          “(c) VACANCIES.—A vacancy on the Board is filled  
22          in the same way as the original selection, except that an  
23          individual appointed by the President of the United States  
24          under subsection (a)(1)(C) of this section to fill a vacancy  
25          occurring before the end of the term for which the prede-

1 cessor of that individual was appointed is appointed for  
 2 the remainder of that term. A vacancy required to be filled  
 3 by appointment under subsection (a)(1)(C) must be filled  
 4 not later than 120 days after the vacancy occurs.

5 “(d) QUORUM.—A majority of the members serving  
 6 shall constitute a quorum for doing business.

7 “(e) BYLAWS.—The Board may adopt and amend by-  
 8 laws governing the operation of Amtrak. The bylaws shall  
 9 be consistent with this part and the articles of incorpora-  
 10 tion.”.

11 (b) EFFECTIVE DATE FOR DIRECTORS’ PROVI-  
 12 SION.—The amendment made by subsection (a) shall take  
 13 effect on January 1, 2006. The members of the Amtrak  
 14 Board serving on the date of enactment of this Act may  
 15 continue to serve for the remainder of the term to which  
 16 they were appointed.

17 **SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL AC-**  
 18 **COUNTING SYSTEM.**

19 (a) IN GENERAL.—The Amtrak Board of Directors—

20 (1) may employ an independent financial con-  
 21 sultant with experience in railroad accounting to as-  
 22 sist Amtrak in improving Amtrak’s financial ac-  
 23 counting and reporting system and practices; and

24 (2) shall implement a modern financial account-  
 25 ing and reporting system that will produce accurate

1 and timely financial information in sufficient  
2 detail—

3 (A) to enable Amtrak to assign revenues  
4 and expenses appropriately to each of its lines  
5 of business and to each major activity within  
6 each line of business activity, including train  
7 operations, equipment maintenance, ticketing,  
8 and reservations;

9 (B) to aggregate expenses and revenues re-  
10 lated to infrastructure and distinguish them  
11 from expenses and revenues related to rail oper-  
12 ations;

13 (C) to allow the analysis of ticketing and  
14 reservation information on a real-time basis;

15 (D) to provide Amtrak cost accounting  
16 data; and

17 (E) to allow financial analysis by route and  
18 service.

19 (b) VERIFICATION OF SYSTEM; REPORT.—The In-  
20 spector General of the Department of Transportation shall  
21 review the accounting system designed and implemented  
22 under subsection (a) to ensure that it accomplishes the  
23 purposes for which it is intended. The Inspector General  
24 shall report his findings and conclusions, together with  
25 any recommendations, to the Senate Committee on Com-

1 merce, Science, and Transportation and the House of Rep-  
 2 resentatives Committee on Transportation and Infrastruc-  
 3 ture.

4 **SEC. 204. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**

5 (a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—

6 The Amtrak Board of Directors shall submit an annual  
 7 budget and business plan for Amtrak, and a 5-year finan-  
 8 cial plan for the fiscal year to which that budget and busi-  
 9 ness plan relate and the subsequent 4 years, prepared in  
 10 accordance with this section, to the Secretary of Transpor-  
 11 tation and the Inspector General of the Department of  
 12 Transportation no later than—

13 (1) the first day of each fiscal year beginning  
 14 after the date of enactment of this Act; or

15 (2) the date that is 60 days after the date of  
 16 enactment of an appropriation Act for the fiscal  
 17 year, if later.

18 (b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The  
 19 5-year financial plan for Amtrak shall include, at a  
 20 minimum—

21 (1) all projected revenues and expenditures for  
 22 Amtrak, including governmental funding sources;

23 (2) projected ridership levels for all Amtrak  
 24 passenger operations;

1           (3) revenue and expenditure forecasts for non-  
2 passenger operations;

3           (4) capital funding requirements and expendi-  
4 tures necessary to maintain passenger service which  
5 will accommodate predicted ridership levels and pre-  
6 dicted sources of capital funding;

7           (5) operational funding needs, if any, to main-  
8 tain current and projected levels of passenger serv-  
9 ice, including state-supported routes and predicted  
10 funding sources;

11          (6) projected capital and operating require-  
12 ments, ridership, and revenue for any new passenger  
13 service operations or service expansions;

14          (7) an assessment of the continuing financial  
15 stability of Amtrak, as indicated by factors such as  
16 the ability of the Federal government to fund capital  
17 and operating requirements adequately, Amtrak's  
18 ability to efficiently manage its workforce, and Am-  
19 trak's ability to effectively provide passenger train  
20 service;

21          (8) estimates of long-term and short-term debt  
22 and associated principle and interest payments (both  
23 current and anticipated);

24          (9) annual cash flow forecasts;

1           (10) a statement describing methods of esti-  
2           mation and significant assumptions;

3           (11) specific measures that demonstrate meas-  
4           urable improvement year over year in Amtrak's abil-  
5           ity to operate with reduced Federal operating assist-  
6           ance; and

7           (12) capital and operating expenditures for an-  
8           ticipated security needs.

9           (c) STANDARDS TO PROMOTE FINANCIAL STA-  
10          BILITY.—In meeting the requirements of subsection (b),  
11          Amtrak shall—

12           (1) apply sound budgetary practices, including  
13           reducing costs and other expenditures, improving  
14           productivity, increasing revenues, or combinations of  
15           such practices;

16           (2) use the categories specified in the financial  
17           accounting and reporting system developed under  
18           section 203 when preparing its 5-year financial plan;  
19           and

20           (3) ensure that the plan is consistent with the  
21           authorizations of appropriations under title I of this  
22           division.

23          (d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

24           (1) IN GENERAL.—The Inspector General of  
25           the Department of Transportation shall assess the

1 5-year financial plans prepared by Amtrak under  
2 this section to determine whether they meet the re-  
3 quirements of subsection (b), and may suggest revi-  
4 sions to any components thereof that do not meet  
5 those requirements.

6 (2) ASSESSMENT TO BE FURNISHED TO THE  
7 CONGRESS.—The Inspector General shall furnish to  
8 the House of Representatives Committee on Appro-  
9 priations, the Senate Committee on Appropriations,  
10 the House of Representatives Committee on Trans-  
11 portation and Infrastructure, and the Senate Com-  
12 mittee on Commerce, Science, and Transportation—

13 (A) an assessment of the annual budget  
14 within 90 days after receiving it from Amtrak;  
15 and

16 (B) an assessment of the remaining 4  
17 years of the 5-year financial plan within 180  
18 days after receiving it from Amtrak.

19 **SEC. 205. ESTABLISHMENT OF GRANT PROCESS.**

20 (a) GRANT REQUESTS.—Amtrak shall submit grant  
21 requests (including a schedule for the disbursement of  
22 funds), consistent with the requirements of this division,  
23 to the Secretary of Transportation for funds authorized  
24 to be appropriated to the Secretary for the use of Amtrak  
25 under sections 101(a) and (b), 103, and 105.

1           (b) PROCEDURES FOR GRANT REQUESTS.—The Sec-  
2 retary shall establish substantive and procedural require-  
3 ments, including schedules, for grant requests under this  
4 section not later than 30 days after the date of enactment  
5 of this Act and shall transmit copies to the Senate Com-  
6 mittee on Commerce, Science, and Transportation and the  
7 House of Representatives Committee on Transportation  
8 and Infrastructure. As part of those requirements, the  
9 Secretary shall require, at a minimum, that Amtrak de-  
10 posit grant funds, consistent with the appropriated  
11 amounts for each area of expenditure in a given fiscal  
12 year, in the following 3 accounts:

13           (1) The Amtrak Operating account.

14           (2) The Amtrak General Capital account.

15           (3) The Northeast Corridor Improvement funds  
16       account.

17 Amtrak may not transfer such funds to another account  
18 or expend such funds for any purpose other than the pur-  
19 poses covered by the account in which the funds are depos-  
20 ited without approval by the Secretary.

21       (c) REVIEW AND APPROVAL.—

22           (1) 30-DAY APPROVAL PROCESS.—The Sec-  
23 retary shall complete the review of a complete grant  
24 request (including the disbursement schedule) and  
25 approve or disapprove the request within 30 days

1 after the date on which Amtrak submits the grant  
2 request. If the Secretary disapproves the request or  
3 determines that the request is incomplete or defi-  
4 cient, the Secretary shall include the reason for dis-  
5 approval or the incomplete items or deficiencies in  
6 the notice to Amtrak.

7 (2) 15-DAY MODIFICATION PERIOD.—Within 15  
8 days after receiving notification from the Secretary  
9 under the preceding sentence, Amtrak shall submit  
10 a modified request for the Secretary’s review.

11 (3) REVISED REQUESTS.—Within 15 days after  
12 receiving a modified request from Amtrak, the Sec-  
13 retary shall either approve the modified request, or,  
14 if the Secretary finds that the request is still incom-  
15 plete or deficient, the Secretary shall identify in  
16 writing to the Senate Committee on Commerce,  
17 Science, and Transportation and the House of Rep-  
18 resentatives Committee on Transportation and In-  
19 frastructure the remaining deficiencies and rec-  
20 ommend a process for resolving the outstanding por-  
21 tions of the request.

22 **SEC. 206. STATE-SUPPORTED ROUTES.**

23 (a) IN GENERAL.—Within 2 years after the date of  
24 enactment of this Act, the Board of Directors of Amtrak,  
25 in consultation with the Secretary of Transportation and

1 the governors of each State and the Mayor of the District  
2 of Columbia or groups representing those officials, shall  
3 develop and implement a standardized methodology for es-  
4 tablishing and allocating the operating and capital costs  
5 among the States and Amtrak associated with trains oper-  
6 ated on routes described in section 24102(5)(B) or (D)  
7 or section 24702 that—

8           (1) ensures, within 5 years after the date of en-  
9           actment of this Act, equal treatment in the provision  
10          of like services of all States and groups of States  
11          (including the District of Columbia); and

12          (2) allocates to each route the costs incurred  
13          only for the benefit of that route and a propor-  
14          tionate share, based upon factors that reasonably re-  
15          flect relative use, of costs incurred for the common  
16          benefit of more than 1 route.

17          (b) REVIEW.—If Amtrak and the States (including  
18          the District of Columbia) in which Amtrak operates such  
19          routes do not voluntarily adopt and implement the meth-  
20          odology developed under subsection (a) in allocating costs  
21          and determining compensation for the provision of service  
22          in accordance with the date established therein, the Sur-  
23          face Transportation Board shall determine the appro-  
24          priate methodology required under subsection (a) for such  
25          services in accordance with the procedures and procedural

1 schedule applicable to a proceeding under section 24904(c)  
 2 of title 49, United States Code, and require the full imple-  
 3 mentation of this methodology with regards to the provi-  
 4 sion of such service within 1 year after the Board's deter-  
 5 mination of the appropriate methodology.

6 (c) USE OF CHAPTER 244 FUNDS.—Funds provided  
 7 to a State under chapter 244 of title 49, United States  
 8 Code, may be used, as provided in that chapter, to pay  
 9 capital costs determined in accordance with this section.

10 **SEC. 207. INDEPENDENT AUDITOR TO ESTABLISH METH-**  
 11 **ODOLOGIES FOR AMTRAK ROUTE AND SERV-**  
 12 **ICE PLANNING DECISIONS.**

13 (a) METHODOLOGY DEVELOPMENT.—The Federal  
 14 Railroad Administration shall obtain the services of an  
 15 independent auditor or consultant to develop and rec-  
 16 ommend objective methodologies for determining intercity  
 17 passenger routes and services, including the establishment  
 18 of new routes, the elimination of existing routes, and the  
 19 contraction or expansion of services or frequencies over  
 20 such routes. In developing such methodologies, the auditor  
 21 or consultant shall consider—

22 (1) the current or expected performance and  
 23 service quality of intercity passenger train oper-  
 24 ations, including cost recovery, on-time performance

1 and minutes of delay, ridership, on-board services,  
2 stations, facilities, equipment, and other services;

3 (2) connectivity of a route with other routes;

4 (3) the transportation needs of communities  
5 and populations that are not well served by other  
6 forms of public transportation;

7 (4) Amtrak's and other major intercity pas-  
8 senger rail service providers in other countries'  
9 methodologies for determining intercity passenger  
10 rail routes and services; and

11 (5) the views of the States and other interested  
12 parties.

13 (b) SUBMITTAL TO CONGRESS.—The auditor or con-  
14 sultant shall submit recommendations developed under  
15 subsection (a) to Amtrak, the House of Representatives  
16 Committee on Transportation and Infrastructure, and the  
17 Senate Committee on Commerce, Science, and Transpor-  
18 tation.

19 (c) CONSIDERATION OF RECOMMENDATIONS.—With-  
20 in 90 days after receiving the recommendations developed  
21 under subsection (a) by the independent auditor or con-  
22 sultant, the Amtrak Board shall consider the adoption of  
23 those recommendations. The Board shall transmit a report  
24 to the Senate Committee on Commerce, Science, and  
25 Transportation and the House of Representatives Com-

1 mittee on Transportation and Infrastructure explaining its  
2 action in adopting or failing to adopt any of the rec-  
3 ommendations.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be made available to the Secretary of  
6 Transportation, out of any amounts authorized by this di-  
7 vision to be appropriated for the benefit of Amtrak and  
8 not otherwise obligated or expended, such sums as may  
9 be necessary to carry out this section.

10 (e) PIONEER ROUTE.—Within 2 years after the date  
11 of enactment of this Act, Amtrak shall conduct a 1-time  
12 evaluation of the Pioneer Route formerly operated by Am-  
13 trak to determine, using methodologies adopted under  
14 subsection (c), whether a level of passenger demand exists  
15 that would warrant consideration of reinstating the entire  
16 Pioneer Route service or segments of that service.

17 **SEC. 208. METRICS AND STANDARDS.**

18 (a) IN GENERAL.—Within 180 days after the date  
19 of enactment of this Act, the Administrator of the Federal  
20 Railroad Administration and Amtrak shall jointly, in con-  
21 sultation with the Surface Transportation Board, rail car-  
22 riers over whose rail lines Amtrak trains operate, States,  
23 Amtrak employees, and groups representing Amtrak pas-  
24 sengers, as appropriate, develop new or improve existing  
25 metrics and minimum standards for measuring the per-

1 formance and service quality of intercity passenger train  
2 operations, including cost recovery, on-time performance  
3 and minutes of delay, ridership, on-board services, sta-  
4 tions, facilities, equipment, and other services. Such  
5 metrics, at a minimum, shall include the percentage of  
6 avoidable and fully allocated operating costs covered by  
7 passenger revenues on each route, ridership per train mile  
8 operated, measures of on-time performance and delays in-  
9 curred by intercity passenger trains on the rail lines of  
10 each rail carrier and, for long distance routes, measures  
11 of connectivity with other routes in all regions currently  
12 receiving Amtrak service and the transportation needs of  
13 communities and populations that are not well-served by  
14 other forms of public transportation. Amtrak shall provide  
15 reasonable access to the Federal Railroad Administration  
16 in order to enable the Administration to carry out its duty  
17 under this section.

18 (b) QUARTERLY REPORTS.—The Administrator of  
19 the Federal Railroad Administration shall collect the nec-  
20 essary data and publish a quarterly report on the perform-  
21 ance and service quality of intercity passenger train oper-  
22 ations, including cost recovery, ridership, on-time perform-  
23 ance and minutes of delay, causes of delay, on-board serv-  
24 ices, stations, facilities, equipment, and other services.

1           (c) CONTRACT WITH HOST RAIL CARRIERS.—To the  
2 extent practicable, Amtrak and its host rail carriers shall  
3 incorporate the metrics and standards developed under  
4 subsection (a) into their access and service agreements.

5           (d) ARBITRATION.—If the development of the metrics  
6 and standards is not completed within the 180-day period  
7 required by subsection (a), any party involved in the devel-  
8 opment of those standards may petition the Surface  
9 Transportation Board to appoint an arbitrator to assist  
10 the parties in resolving their disputes through binding ar-  
11 bitration.

12 **SEC. 209. PASSENGER TRAIN PERFORMANCE.**

13           (a) IN GENERAL.—Section 24308 is amended by  
14 adding at the end the following:

15           “(f) PASSENGER TRAIN PERFORMANCE AND OTHER  
16 STANDARDS.—

17                   “(1) INVESTIGATION OF SUBSTANDARD PER-  
18 FORMANCE.—If the on-time performance of any  
19 intercity passenger train averages less than 80 per-  
20 cent for any 2 consecutive calendar quarters, or the  
21 service quality of intercity passenger train operations  
22 for which minimum standards are established under  
23 section 208 of the Passenger Rail Investment and  
24 Improvement Act of 2005 fails to meet those stand-  
25 ards for 2 consecutive calendar quarters, the Surface

1 Transportation Board shall investigate whether, and  
2 to what extent, delays or failure to achieve minimum  
3 standards are due to causes that could reasonably be  
4 addressed by a rail carrier over the tracks of which  
5 the intercity passenger train operates or reasonably  
6 addressed by the intercity passenger rail operator.  
7 In carrying out such an investigation, the Board  
8 shall obtain information from all parties involved  
9 and make recommendations regarding reasonable  
10 measures to improve the service, quality, and on-  
11 time performance of the train.

12 “(2) PROBLEMS CAUSED BY HOST RAIL CAR-  
13 RIER.—If the Board determines that delays or fail-  
14 ures to achieve minimum standards investigated  
15 under paragraph (1) are attributable to a rail car-  
16 rier’s failure to provide preference to Amtrak over  
17 freight transportation under subsection (c), then the  
18 Board shall enforce its recommendations for relief  
19 under this section.

20 “(3) PENALTIES.—

21 “(A) IN GENERAL.—The Board shall pub-  
22 lish a schedule of penalties which will—

23 “(A) fairly reflect the extent to which Am-  
24 trak suffers financial loss as a result of host

1 rail carrier delays or failure to achieve min-  
 2 imum standards; and

3 “(B) will adequately deter future actions  
 4 which may reasonably be expected to be likely  
 5 to result in delays to Amtrak.

6 “(B) ASSESSMENT.—The Board may as-  
 7 sess these penalties upon a host rail carrier.

8 “(C) USE.—The Board shall make any  
 9 amounts received as penalties under this para-  
 10 graph available to Amtrak or a State con-  
 11 tracting with Amtrak, as applicable, for capital  
 12 or operating expenditures on such routes.”.

13 (b) CHANGE OF REFERENCE.—Section 24308 is  
 14 amended—

15 (1) by striking “Interstate Commerce Commis-  
 16 sion” in subsection (a)(2)(A) and inserting “Surface  
 17 Transportation Board”;

18 (2) by striking “Commission” each place it ap-  
 19 pears and inserting “Board”;

20 (3) by striking “Secretary” the last 3 places it  
 21 appears in subsection (c) and each place it appears  
 22 in subsections (d) and (e) and inserting “Board”.

23 **SEC. 210. LONG DISTANCE ROUTES.**

24 (a) IN GENERAL.—Chapter 247 is amended by add-  
 25 ing at the end thereof the following:

1 **“§ 24710. Long distance routes**

2       “(a) ANNUAL EVALUATION.—Using the financial and  
3 performance metrics developed under section 208 of the  
4 Passenger Rail Investment and Improvement Act of 2005,  
5 Amtrak shall—

6           “(1) evaluate annually the financial and oper-  
7 ating performance of each long distance passenger  
8 rail route operated by Amtrak; and

9           “(2) rank the overall performance of such  
10 routes for 2006 and identify each long distance pas-  
11 senger rail route operated by Amtrak in 2006 ac-  
12 cording to its overall performance as belonging to  
13 the best performing third of such routes, the second  
14 best performing third of such routes, or the worst  
15 performing third of such routes.

16       “(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak  
17 shall develop and publish a performance improvement plan  
18 for its long distance passenger rail routes to achieve finan-  
19 cial and operating improvements based on the data col-  
20 lected through the application of the financial and per-  
21 formance metrics developed under section 208 of that Act.  
22 The plan shall address—

23           “(1) on-time performance;

24           “(2) scheduling, frequency, routes, and stops;

25           “(3) the feasibility of restructuring service into  
26 connected corridor service;

1           “(4) performance-related equipment changes  
2           and capital improvements;

3           “(5) on-board amenities and service, including  
4           food, first class, and sleeping car service;

5           “(6) State or other non-Federal financial con-  
6           tributions;

7           “(7) improving financial performance; and

8           “(8) other aspects of Amtrak’s long distance  
9           passenger rail routes that affect the financial, com-  
10          petitive, and functional performance of service on  
11          Amtrak’s long distance passenger rail routes.

12          “(c) IMPLEMENTATION.—Amtrak shall implement  
13          the performance improvement plan developed under sub-  
14          section (b)—

15               “(1) beginning in fiscal year 2007 for those  
16               routes identified as being in the worst performing  
17               third under subsection (a)(2);

18               “(2) beginning in fiscal year 2008 for those  
19               routes identified as being in the second best per-  
20               forming third under subsection (a)(2); and

21               “(3) beginning in fiscal year 2009 for those  
22               routes identified as being in the best performing  
23               third under subsection (a)(2).

24          “(d) ENFORCEMENT.—The Federal Railroad Admin-  
25          istration shall monitor the development, implementation,

1 and outcome of improvement plans under this section. If,  
 2 for any year, it determines that Amtrak is not making  
 3 reasonable progress in implementing its performance im-  
 4 provement plan or in achieving the expected outcome of  
 5 the plan for any calendar year, the Federal Railroad  
 6 Administration—

7           “(1) shall notify Amtrak, the Inspector General  
 8           of the Department of Transportation, and appro-  
 9           priate Congressional committees of its determination  
 10          under this subsection;

11           “(2) shall provide an opportunity for a hearing  
 12          with respect to that determination; and

13           “(3) may withhold any appropriated funds oth-  
 14          erwise available to Amtrak for the operation of a  
 15          route or routes on which it is not making progress,  
 16          other than funds made available for passenger safety  
 17          or security measures.”.

18          (b) CONFORMING AMENDMENT.—The chapter anal-  
 19          ysis for chapter 247 is amended by inserting after the item  
 20          relating to section 24709 the following:

“24710. Long distance routes”.

21 **SEC. 211. ALTERNATE PASSENGER RAIL SERVICE PRO-**  
 22 **GRAM.**

23          (a) IN GENERAL.—Chapter 247, as amended by sec-  
 24          tion 209, is amended by adding at the end thereof the  
 25          following:

1 **“§ 24711. Alternate passenger rail service program**

2 “(a) IN GENERAL.—Within 1 year after the date of  
3 enactment of the Passenger Rail Investment and Improve-  
4 ment Act of 2005, the Federal Railroad Administration  
5 shall initiate a rulemaking proceeding to develop a pro-  
6 gram under which—

7 “(1) a rail carrier or rail carriers that own in-  
8 frastructure over which Amtrak operates a pas-  
9 senger rail service route described in subparagraph  
10 (B), (C), or (D) of section 24102(5) or in section  
11 24702 of title 49, United States Code may petition  
12 the Federal Railroad Administration to be consid-  
13 ered as a passenger rail service provider over that  
14 route in lieu of Amtrak;

15 “(2) the Administration would notify Amtrak  
16 within 30 days after receiving a petition under para-  
17 graph (1) and establish a deadline by which both the  
18 petitioner and Amtrak would be required to submit  
19 a bid to provide passenger rail service over the route  
20 to which the petition relates;

21 “(3) each bid would describe how the bidder  
22 would operate the route, what Amtrak passenger  
23 equipment would be needed, if any, what sources of  
24 non-Federal funding the bidder would use, including  
25 any State subsidy, among other things;

1           “(4) the Administration would make a decision  
2           and execute a contract within a specified, limited  
3           time after that deadline awarding to the winning  
4           bidder—

5                   “(A) the right and obligation to provide  
6                   passenger rail service over that route subject to  
7                   such performance standards as the Administra-  
8                   tion may require, consistent with the standards  
9                   developed under section 208 of this division;  
10                  and

11                   “(B) an operating subsidy—

12                           “(i) for the first year at a level not in  
13                           excess of the level in effect during the fis-  
14                           cal year preceding the fiscal year in which  
15                           the petition was received, adjusted for in-  
16                           flation;

17                           “(ii) for any subsequent years at such  
18                           level, adjusted for inflation; and

19           “(5) each bid would contain a staffing plan de-  
20           scribing the number of employees needed to operate  
21           the service, the job assignments and requirements,  
22           and the terms of work for prospective and current  
23           employees of the bidder for the service outlined in  
24           the bid, and such staffing plan would be made avail-

1       able by the winning bidder to the public after the bid  
2       award.

3       “(b) IMPLEMENTATION.—

4             “(1) INITIAL PETITIONS.—Pursuant to any  
5       rules or regulations promulgated under subsection  
6       (A), the Administration shall establish a deadline for  
7       the submission of a petition under subsection (a)—

8             “(A) during fiscal year 2007 for operations  
9       commencing in fiscal year 2008; and

10            “(B) during the immediately preceding fis-  
11       cal year for operations commencing in subse-  
12       quent fiscal years.

13            “(2) ROUTE LIMITATIONS.—The Administra-  
14       tion may not make the program available with re-  
15       spect to more than 1 Amtrak passenger rail route  
16       for operations beginning in fiscal year 2008 nor to  
17       more than 2 such routes for operations beginning in  
18       fiscal year 2010 and subsequent fiscal years.

19            “(c) PERFORMANCE STANDARDS; ACCESS TO FACILI-  
20       TIES; EMPLOYEES.—If the Administration awards the  
21       right and obligation to provide passenger rail service over  
22       a route under the program to a rail carrier or rail  
23       carriers—

24            “(1) it shall execute a contract with the rail  
25       carrier or rail carriers for rail passenger operations

1 on that route that conditions the operating and sub-  
2 sidy rights upon—

3 “(A) the service provider continuing to  
4 provide passenger rail service on the route that  
5 is no less frequent, nor over a shorter distance,  
6 than Amtrak provided on that route before the  
7 award; and

8 “(B) the service provider’s compliance with  
9 the minimum standards established under sec-  
10 tion 208 of the Passenger Rail Investment and  
11 Improvement Act of 2005 and such additional  
12 performance standards as the Administration  
13 may establish;

14 “(2) it shall, if the award is made to a rail car-  
15 rier other than Amtrak, require Amtrak to provide  
16 access to its reservation system, stations, and facili-  
17 ties to any rail carrier or rail carriers awarded a  
18 contract under this section, in accordance with sec-  
19 tion 218 of that Act, necessary to carry out the pur-  
20 poses of this section;

21 “(3) the employees of any person used by a rail  
22 carrier or rail carriers (as defined in section  
23 10102(5) of this title) in the operation of a route  
24 under this section shall be considered an employee of  
25 that carrier or carriers and subject to the applicable

1 Federal laws and regulations governing similar  
2 crafts or classes of employees of Amtrak, including  
3 provisions under section 121 of the Amtrak Reform  
4 and Accountability Act of 1997 relating to employ-  
5 ees that provide food and beverage service; and

6 “(4) the winning bidder shall provide preference  
7 in hiring to qualified Amtrak employees displaced by  
8 the award of the bid, consistent with the staffing  
9 plan submitted by the bidder.

10 “(d) CESSATION OF SERVICE.—If a rail carrier or  
11 rail carriers awarded a route under this section cease to  
12 operate the service or fail to fulfill their obligations under  
13 the contract required under subsection (c), the Adminis-  
14 trator, in collaboration with the Surface Transportation  
15 Board shall take any necessary action consistent with this  
16 title to enforce the contract and ensure the continued pro-  
17 vision of service, including the installment of an interim  
18 service provider and re-bidding the contract to operate the  
19 service. The entity providing service shall either be Am-  
20 trak or a rail carrier defined in section 24711(a)(1).

21 “(e) ADEQUATE RESOURCES.—Before taking any ac-  
22 tion allowed under this section, the Secretary shall certify  
23 that the Administrator has sufficient resources that are  
24 adequate to undertake the program established under this  
25 section.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-  
 2 ysis for chapter 247, as amended by section 209, is  
 3 amended by inserting after the item relating to section  
 4 24710 the following:

“24711. Alternate passenger rail service program”.

5 **SEC. 212. EMPLOYEE TRANSITION ASSISTANCE.**

6 (a) PROVISION OF FINANCIAL INCENTIVES.—For  
 7 Amtrak employees who are adversely affected by the ces-  
 8 sation of the operation of a long distance route or any  
 9 other route under section 24711 of title 49, United States  
 10 Code, previously operated by Amtrak, the Secretary shall  
 11 develop a program under which the Secretary may, in the  
 12 Secretary’s discretion, provide grants for financial incen-  
 13 tives to be provided to employees of the National Railroad  
 14 Passenger Corporation who voluntarily terminate their  
 15 employment with the Corporation and relinquish any legal  
 16 rights to receive termination-related payments under any  
 17 contractual agreement with the Corporation.

18 (b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a  
 19 condition for receiving financial assistance grants under  
 20 this section, the Corporation must certify that—

21 (1) a reasonable attempt was made to reassign  
 22 an employee adversely affected under section 24711  
 23 of title 49, United States Code, or by the elimination  
 24 of any route, to other positions within the Corpora-  
 25 tion in accordance with any contractual agreements;

1           (2) the financial assistance results in a net re-  
2           duction in the total number of employees equal to  
3           the number receiving financial incentives;

4           (3) the financial assistance results in a net re-  
5           duction in total employment expense equivalent to  
6           the total employment expenses associated with the  
7           employees receiving financial incentives; and

8           (4) the total number of employees eligible for  
9           termination-related payments will not be increased  
10          without the express written consent of the Secretary.

11          (c) AMOUNT OF FINANCIAL INCENTIVES.—The fi-  
12          nancial incentives authorized under this section may be  
13          no greater than \$50,000 per employee.

14          (d) AUTHORIZATION OF APPROPRIATIONS.—There  
15          are hereby authorized to be appropriated to the Secretary  
16          such sums as may be necessary to make grants to the Na-  
17          tional Railroad Passenger Corporation to provide financial  
18          incentives under subsection (a).

19          (e) TERMINATION-RELATED PAYMENTS.—If Amtrak  
20          employees adversely affected by the cessation of Amtrak  
21          service resulting from the awarding of a grant to an oper-  
22          ator other than Amtrak for the operation of a route under  
23          section 24711 of title 49, United States Code, or any other  
24          route, previously operated by Amtrak do not receive finan-  
25          cial incentives under subsection (a), then the Secretary

1 shall make grants to the National Railroad Passenger Cor-  
2 poration from funds authorized by section 102 of this divi-  
3 sion for termination-related payments to employees under  
4 existing contractual agreements.

5 **SEC. 213. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR**  
6 **PLAN.**

7 (a) IN GENERAL.—Within 6 months after the date  
8 of enactment of this Act, the National Railroad Passenger  
9 Corporation, in consultation with the Secretary and the  
10 States (including the District of Columbia) that make up  
11 the Northeast Corridor (as defined in section 24102 of  
12 title 49, United States Code), shall prepare a capital  
13 spending plan for capital projects required to return the  
14 Northeast Corridor to a state of good repair by the end  
15 of fiscal year 2011, consistent with the funding levels au-  
16 thorized in this division and shall submit the plan to the  
17 Secretary.

18 (b) APPROVAL BY THE SECRETARY.—

19 (1) The Corporation shall submit the capital  
20 spending plan prepared under this section to the  
21 Secretary of Transportation for review and approval  
22 pursuant to the procedures developed under section  
23 205 of this division.

24 (2) The Secretary of Transportation shall re-  
25 quire that the plan be updated at least annually and

1 shall review and approve such updates. During re-  
2 view, the Secretary shall seek comments and review  
3 from the commission established under section  
4 24905 of title 49, United States Code, and other  
5 Northeast Corridor users regarding the plan.

6 (3) The Secretary shall make grants to the Cor-  
7 poration with funds authorized by section 101(b) for  
8 Northeast Corridor capital investments contained  
9 within the capital spending plan prepared by the  
10 Corporation and approved by the Secretary.

11 (4) Using the funds authorized by section  
12 101(d), the Secretary shall review Amtrak's capital  
13 expenditures funded by this section to ensure that  
14 such expenditures are consistent with the capital  
15 spending plan and that Amtrak is providing ade-  
16 quate project management oversight and fiscal con-  
17 trols.

18 (c) ELIGIBILITY OF EXPENDITURES.—The Federal  
19 share of expenditures for capital improvements under this  
20 section may not exceed 100 percent.

21 **SEC. 214. NORTHEAST CORRIDOR INFRASTRUCTURE AND**  
22 **OPERATIONS IMPROVEMENTS.**

23 (a) IN GENERAL.—Section 24905 is amended to read  
24 as follows:

1 **“§ 24905. Northeast Corridor Infrastructure and Op-**  
2 **erations Advisory Commission; Safety**  
3 **and Security Committee.**

4 “(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND  
5 OPERATIONS ADVISORY COMMISSION.—

6 “(1) Within 180 days after the date of enact-  
7 ment of the Passenger Rail Investment and Im-  
8 provement Act of 2005, the Secretary of Transpor-  
9 tation shall establish a Northeast Corridor Infra-  
10 structure and Operations Advisory Commission  
11 (hereinafter referred to in this section as the ‘Com-  
12 mission’) to promote mutual cooperation and plan-  
13 ning pertaining to the rail operations and related ac-  
14 tivities of the Northeast Corridor. The Commission  
15 shall be made up of—

16 “(A) members representing the National  
17 Railroad Passenger Corporation;

18 “(B) members representing the Secretary  
19 of Transportation and the Federal Railroad Ad-  
20 ministration;

21 “(C) 1 member from each of the States  
22 (including the District of Columbia) that con-  
23 stitute the Northeast Corridor as defined in sec-  
24 tion 24102, designated by, and serving at the  
25 pleasure of, the chief executive officer thereof;  
26 and

1           “(D) non-voting representatives of freight  
2           railroad carriers using the Northeast Corridor  
3           selected by the Secretary.

4           “(2) The Secretary shall ensure that the mem-  
5           bership belonging to any of the groups enumerated  
6           under subparagraph (1) shall not constitute a major-  
7           ity of the commission’s memberships.

8           “(3) The commission shall establish a schedule  
9           and location for convening meetings, but shall meet  
10          no less than four times per fiscal year, and the com-  
11          mission shall develop rules and procedures to govern  
12          the commission’s proceedings.

13          “(4) A vacancy in the Commission shall be  
14          filled in the manner in which the original appoint-  
15          ment was made.

16          “(5) Members shall serve without pay but shall  
17          receive travel expenses, including per diem in lieu of  
18          subsistence, in accordance with sections 5702 and  
19          5703 of title 5, United States Code.

20          “(6) The Chairman of the Commission shall be  
21          elected by the members.

22          “(7) The Commission may appoint and fix the  
23          pay of such personnel as it considers appropriate.

24          “(8) Upon request of the Commission, the head  
25          of any department or agency of the United States

1       may detail, on a reimbursable basis, any of the per-  
2       sonnel of that department or agency to the Commis-  
3       sion to assist it in carrying out its duties under this  
4       section.

5               “(9) Upon the request of the Commission, the  
6       Administrator of General Services shall provide to  
7       the Commission, on a reimbursable basis, the admin-  
8       istrative support services necessary for the Commis-  
9       sion to carry out its responsibilities under this sec-  
10      tion.

11              “(10) The commission shall consult with other  
12      entities as appropriate.

13              “(b) GENERAL RECOMMENDATIONS.—The Commis-  
14      sion shall develop recommendations concerning Northeast  
15      Corridor rail infrastructure and operations including pro-  
16      posals addressing, as appropriate—

17              “(1) short-term and long term capital invest-  
18      ment needs beyond the state-of-good-repair under  
19      section 213;

20              “(2) future funding requirements for capital  
21      improvements and maintenance;

22              “(3) operational improvements of intercity pas-  
23      senger rail, commuter rail, and freight rail services;

24              “(4) opportunities for additional non-rail uses  
25      of the Northeast Corridor;

- 1 “(5) scheduling and dispatching;  
2 “(6) safety and security enhancements;  
3 “(7) equipment design;  
4 “(8) marketing of rail services; and  
5 “(9) future capacity requirements.

6 “(c) ACCESS COSTS.—

7 “(1) DEVELOPMENT OF FORMULA.—Within 1  
8 year after verification of Amtrak’s new financial ac-  
9 counting system pursuant to section 203(b) of the  
10 Passenger Rail Investment and Improvement Act of  
11 2005, the Commission shall—

12 “(A) develop a standardized formula for  
13 determining and allocating costs, revenues, and  
14 compensation for Northeast Corridor commuter  
15 rail passenger transportation, as defined in sec-  
16 tion 24102 of this title, that use National Rail-  
17 road Passenger Corporation facilities or services  
18 or that provide such facilities or services to the  
19 National Railroad Passenger Corporation that  
20 ensure that—

21 “(i) there is no cross-subsidization of  
22 commuter rail passenger, intercity rail pas-  
23 senger, or freight rail transportation; and

24 “(ii) each service is assigned the costs  
25 incurred only for the benefit of that serv-

1 ice, and a proportionate share, based upon  
2 factors that reasonably reflect relative use,  
3 of costs incurred for the common benefit of  
4 more than 1 service;

5 “(B) develop a proposed timetable for im-  
6 plementing the formula before the end of the  
7 6th year following the date of enactment of that  
8 Act;

9 “(C) transmit the proposed timetable to  
10 the Surface Transportation Board; and

11 “(D) at the request of a Commission mem-  
12 ber, petition the Surface Transportation Board  
13 to appoint a mediator to assist the Commission  
14 members through non-binding mediation to  
15 reach an agreement under this section.

16 “(2) IMPLEMENTATION.—The National Rail-  
17 road Passenger Corporation and the commuter au-  
18 thorities providing commuter rail passenger trans-  
19 portation on the Northeast Corridor shall implement  
20 new agreements for usage of facilities or services  
21 based on the formula proposed in paragraph (1) in  
22 accordance with the timetable established therein. If  
23 the entities fail to implement such new agreements  
24 in accordance with the timetable, the Commission  
25 shall petition the Surface Transportation Board to

1 determine the appropriate compensation amounts for  
2 such services in accordance with section 24904(e) of  
3 this title. The Surface Transportation Board shall  
4 enforce its determination on the party or parties in-  
5 volved.

6 “(d) TRANSMISSION OF RECOMMENDATIONS.—The  
7 commission shall annually transmit the recommendations  
8 developed under subsection (b) and the formula and time-  
9 table developed under subsection (c)(1) to the Senate  
10 Committee on Commerce, Science, and Transportation  
11 and the House of Representatives Committee on Trans-  
12 portation and Infrastructure.

13 “(e) NORTHEAST CORRIDOR SAFETY AND SECURITY  
14 COMMITTEE.—

15 “(1) IN GENERAL.—The Secretary shall estab-  
16 lish a Northeast Corridor Safety and Security Com-  
17 mittee composed of members appointed by the Sec-  
18 retary. The members shall be representatives of—

19 “(A) the Secretary;

20 “(B) Amtrak;

21 “(C) freight carriers operating more than  
22 150,000 train miles a year on the main line of  
23 the Northeast Corridor;

24 “(D) commuter agencies;

25 “(E) rail passengers;

1           “(F) rail labor;

2           “(G) the Transportation Security Adminis-  
3           tration; and

4           “(H) other individuals and organizations  
5           the Secretary decides have a significant interest  
6           in rail safety or security.

7           “(2) FUNCTION; MEETINGS.—The Secretary  
8           shall consult with the Committee about safety and  
9           security improvements on the Northeast Corridor  
10          main line. The Committee shall meet at least once  
11          every 2 years to consider safety matters on the main  
12          line.

13          “(3) REPORT.—At the beginning of the first  
14          session of each Congress, the Secretary shall submit  
15          a report to the Commission and to Congress on the  
16          status of efforts to improve safety and security on  
17          the Northeast Corridor main line. The report shall  
18          include the safety recommendations of the Com-  
19          mittee and the comments of the Secretary on those  
20          recommendations.”.

21          (3) CONFORMING AMENDMENTS.—Section  
22          24904(c)(2) is amended by—

23                  (A) inserting “commuter rail passenger”  
24                  after “between”; and

1 (B) striking “freight” in the second sen-  
2 tence.

3 **SEC. 215. RESTRUCTURING LONG-TERM DEBT AND CAP-**  
4 **ITAL LEASES.**

5 (a) IN GENERAL.—The Secretary of the Treasury, in  
6 consultation with the Secretary of Transportation and  
7 Amtrak, may make agreements to restructure Amtrak’s  
8 indebtedness as of the date of enactment of this Act. This  
9 authorization expires on January 1, 2007.

10 (b) DEBT RESTRUCTURING.—The Secretary of  
11 Treasury, in consultation with the Secretary of the Trans-  
12 portation and Amtrak, shall enter into negotiations with  
13 the holders of Amtrak debt, including leases, outstanding  
14 on the date of enactment of this Act for the purpose of  
15 restructuring (including repayment) and repaying that  
16 debt. The Secretary of the Treasury may secure agree-  
17 ments for restructuring or repayment on such terms as  
18 the Secretary of the Treasury deems favorable to the in-  
19 terests of the Government.

20 (c) CRITERIA.—In restructuring Amtrak’s indebted-  
21 ness, the Secretary and Amtrak—

22 (1) shall take into consideration repayment  
23 costs, the term of any loan or loans, and market  
24 conditions; and

1           (2) shall ensure that the restructuring results  
2           in significant savings to Amtrak and the United  
3           States Government.

4           (d) PAYMENT OF RENEGOTIATED DEBT.—If the cri-  
5           teria under subsection (c) are met, the Secretary of Treas-  
6           ury shall assume or repay the restructured debt, as appro-  
7           priate.

8           (e) AMTRAK PRINCIPAL AND INTEREST PAY-  
9           MENTS.—

10           (1) PRINCIPAL ON DEBT SERVICE.—Unless the  
11           Secretary of Treasury makes sufficient payments to  
12           creditors under subsection (d) so that Amtrak is re-  
13           quired to make no payments to creditors in a fiscal  
14           year, the Secretary of Transportation shall use  
15           funds authorized by section 103(a)(1) for the use of  
16           Amtrak for retirement of principal on loans for cap-  
17           ital equipment, or capital leases.

18           (2) INTEREST ON DEBT.—Unless the Secretary  
19           of Treasury makes sufficient payments to creditors  
20           under subsection (d) so that Amtrak is required to  
21           make no payments to creditors in a fiscal year, the  
22           Secretary of Transportation shall use funds author-  
23           ized by section 103(a)(2) for the use of Amtrak for  
24           the payment of interest on loans for capital equip-  
25           ment, or capital leases.

1           (3) REDUCTIONS IN AUTHORIZATION LEVELS.—

2           Whenever action taken by the Secretary of the  
3           Treasury under subsection (a) results in reductions  
4           in amounts of principal or interest that Amtrak  
5           must service on existing debt, the corresponding  
6           amounts authorized by section 103(a)(1) or (2) shall  
7           be reduced accordingly.

8           (f) LEGAL EFFECT OF PAYMENTS UNDER THIS SEC-  
9           TION.—The payment of principal and interest on secured  
10          debt, other than debt assumed under subsection (d), with  
11          the proceeds of grants under subsection (e) shall not—

12           (1) modify the extent or nature of any indebt-  
13          edness of the National Railroad Passenger Corpora-  
14          tion to the United States in existence of the date of  
15          enactment of this Act;

16           (2) change the private nature of Amtrak's or its  
17          successors' liabilities; or

18           (3) imply any Federal guarantee or commit-  
19          ment to amortize Amtrak's outstanding indebted-  
20          ness.

21          (g) SECRETARY APPROVAL.—Amtrak may not incur  
22          more debt after the date of enactment of this Act without  
23          the express advance approval of the Secretary of Trans-  
24          portation.

1 (h) REPORT.—The Secretary of the Treasury shall  
2 transmit a report to the Senate Committee on Commerce,  
3 Science, and Transportation, the Senate Committee on  
4 Appropriations, the House of Representatives Committee  
5 on Transportation and Infrastructure, and the House of  
6 Representatives Committee on Appropriations by June 1,  
7 2007—

8 (1) describing in detail any agreements to re-  
9 structure the Amtrak debt; and

10 (2) providing an estimate of the savings to Am-  
11 trak and the United States Government.

12 **SEC. 216. STUDY OF COMPLIANCE REQUIREMENTS AT EX-**  
13 **ISTING INTERCITY RAIL STATIONS.**

14 Amtrak, in consultation with station owners, shall  
15 evaluate the improvements necessary to make all existing  
16 stations it serves readily accessible to and usable by indi-  
17 viduals with disabilities, as required by section 242(e)(2)  
18 of the Americans with Disabilities Act of 1990 (42 U.S.C.  
19 12162(e)(2)). The evaluation shall include the estimated  
20 cost of the improvements necessary, the identification of  
21 the responsible person (as defined in section 241(5) of  
22 that Act (42 U.S.C. 12161(5))), and the earliest prac-  
23 ticable date when such improvements can be made. Am-  
24 trak shall submit the evaluation to the Senate Committee  
25 on Commerce, Science, and Transportation, the House of

1 Representatives Committee on Transportation and Infra-  
2 structure, and the National Council on Disability by Sep-  
3 tember 30, 2007, along with recommendations for funding  
4 the necessary improvements.

5 **SEC. 217. INCENTIVE PAY.**

6 The Amtrak Board of Directors is encouraged to de-  
7 velop an incentive pay program for Amtrak management  
8 employees.

9 **SEC. 218. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.**

10 If a State desires to select or selects an entity other  
11 than Amtrak to provide services required for the operation  
12 of an intercity passenger train route described in section  
13 24102(5)(D) or 24702 of title 49, United States Code,  
14 the State may make an agreement with Amtrak to use  
15 facilities and equipment of, or have services provided by,  
16 Amtrak under terms agreed to by the State and Amtrak  
17 to enable the State to utilize an entity other than Amtrak  
18 to provide services required for operation of the route. If  
19 the parties cannot agree upon terms, and the Surface  
20 Transportation Board finds that access to Amtrak's facili-  
21 ties or equipment, or the provision of services by Amtrak,  
22 is necessary to carry out this provision and that the oper-  
23 ation of Amtrak's other services will not be impaired  
24 thereby, the Surface Transportation Board shall, within  
25 120 days after submission of the dispute, issue an order

1 that the facilities and equipment be made available, and  
2 that services be provided, by Amtrak, and shall determine  
3 reasonable compensation, liability and other terms for use  
4 of the facilities and equipment and provision of the serv-  
5 ices. Compensation shall be determined in accord with the  
6 methodology established pursuant to section 206 of this  
7 division.

8 **SEC. 219. GENERAL AMTRAK PROVISIONS.**

9 (a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

10 (1) TITLE 49 AMENDMENTS.—Chapter 241 is  
11 amended—

12 (A) by striking the last sentence of section  
13 24101(d); and

14 (B) by striking the last sentence of section  
15 24104(a).

16 (2) AMTRAK REFORM AND ACCOUNTABILITY  
17 ACT AMENDMENTS.—Title II of the Amtrak Reform  
18 and Accountability Act of 1997 (49 U.S.C. 24101  
19 nt) is amended by striking sections 204 and 205.

20 (3) COMMON STOCK REDEMPTION DATE.—Sec-  
21 tion 415 of the Amtrak Reform and Accountability  
22 Act of 1997 (49 U.S.C. 24304 nt) is amended by  
23 striking subsection (b).

24 (b) LEASE ARRANGEMENTS.—Amtrak may obtain  
25 services from the Administrator of General Services, and

1 the Administrator may provide services to Amtrak, under  
2 section 201(b) and 211(b) of the Federal Property and  
3 Administrative Service Act of 1949 (40 U.S.C. 481(b) and  
4 491(b)) for each of fiscal years 2006 through 2011.

5 **SEC. 220. PRIVATE SECTOR FUNDING OF PASSENGER**  
6 **TRAINS.**

7 Amtrak is encouraged to increase its operation of  
8 trains funded by the private sector in order to minimize  
9 its need for Federal subsidies. Amtrak shall utilize the  
10 provisions of section 24308 of title 49, United States  
11 Code, when necessary to obtain access to facilities, train  
12 and engine crews, or services of a rail carrier or regional  
13 transportation authority that are required to operate such  
14 trains.

15 **SEC. 221. ON-BOARD SERVICE IMPROVEMENTS.**

16 (a) **IN GENERAL.**—Within 1 year after metrics and  
17 standards are established under section 208 of this divi-  
18 sion, Amtrak shall develop and implement a plan to im-  
19 prove on-board service pursuant to the metrics and stand-  
20 ards for such service developed under that section.

21 (b) **REPORT.**—Amtrak shall provide a report to the  
22 Senate Committee on Commerce, Science, and Transpor-  
23 tation and the House of Representatives Committee on  
24 Transportation and Infrastructure on the on-board service

1 improvements proscribed in the plan and the timeline for  
2 implementing such improvements.

3 **SEC. 222. AMTRAK MANAGEMENT ACCOUNTABILITY.**

4 (a) IN GENERAL.—Chapter 243 is amended by in-  
5 serting after section 24309 the following:

6 **“§ 24310. Management accountability**

7 “(a) IN GENERAL.—Three years after the date of en-  
8 actment of the Passenger Rail Investment and Improve-  
9 ment Act of 2005, and two years thereafter, the Inspector  
10 General of the Department of Transportation shall com-  
11 plete an overall assessment of the progress made by Am-  
12 trak management and the Department of Transportation  
13 in implementing the provisions of that Act.

14 “(b) ASSESSMENT.—The management assessment  
15 undertaken by the Inspector General may include a review  
16 of—

17 “(1) effectiveness improving annual financial  
18 planning;

19 “(2) effectiveness in implementing improved fi-  
20 nancial accounting;

21 “(3) efforts to implement minimum train per-  
22 formance standards;

23 “(4) progress maximizing revenues and mini-  
24 mizing Federal subsidies; and

1 “(5) any other aspect of Amtrak operations the  
2 Inspector General finds appropriate to review.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-  
4 ysis for chapter 243 is amended by inserting after the item  
5 relating to section 24309 the following:

“24310. Management accountability”.

6 **TITLE III—INTERCITY**  
7 **PASSENGER RAIL POLICY**

8 **SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PAS-**  
9 **SENGER RAIL SERVICE.**

10 (a) IN GENERAL.—Part C of subtitle V is amended  
11 by inserting the following after chapter 243:

“CHAPTER 244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR  
CAPITAL ASSISTANCE

“Sec.

“24401. Definitions.

“24402. Capital investment grants to support intercity passenger rail service.

“24403. Project management oversight

“24404. Use of capital grants to finance first-dollar liability of grant project.

“24405. Grant conditions.

12 **“§ 24401. Definitions**

13 “In this subchapter:

14 “(1) APPLICANT.—The term ‘applicant’ means  
15 a State (including the District of Columbia), a group  
16 of States, an Interstate Compact, or a public agency  
17 established by one or more States and having re-  
18 sponsibility for providing intercity passenger rail  
19 service.

1           “(2) CAPITAL PROJECT.—The term ‘capital  
2 project’ means a project or program in a State rail  
3 plan developed under chapter 225 of this title for—

4           “(A) acquiring, constructing, improving, or  
5 inspecting equipment, track and track struc-  
6 tures, or a facility for use in or for the primary  
7 benefit of intercity passenger rail service, ex-  
8 penses incidental to the acquisition or construc-  
9 tion (including designing, engineering, location  
10 surveying, mapping, environmental studies, and  
11 acquiring rights-of-way), payments for the cap-  
12 ital portions of rail trackage rights agreements,  
13 highway-rail grade crossing improvements re-  
14 lated to intercity passenger rail service, secu-  
15 rity, mitigating environmental impacts, commu-  
16 nication and signalization improvements, reloca-  
17 tion assistance, acquiring replacement housing  
18 sites, and acquiring, constructing, relocating,  
19 and rehabilitating replacement housing;

20           “(B) rehabilitating, remanufacturing or  
21 overhauling rail rolling stock and facilities used  
22 primarily in intercity passenger rail service;

23           “(C) costs associated with developing State  
24 rail plans; and

1           “(D) the first-dollar liability costs for in-  
2           surance related to the provision of intercity pas-  
3           senger rail service under section 24404.

4           “(3) INTERCITY PASSENGER RAIL SERVICE.—  
5           The term ‘intercity passenger rail service’ means  
6           transportation services with the primary purpose of  
7           passenger transportation between towns, cities and  
8           metropolitan areas by rail, including high-speed rail,  
9           as defined in section 24102 of title 49, United  
10          States Code.

11       **“§ 24402. Capital investment grants to support inter-**  
12               **city passenger rail service.**

13           “(a) GENERAL AUTHORITY.—

14           “(1) The Secretary of Transportation may  
15           make grants under this section to an applicant to  
16           assist in financing the capital costs of facilities and  
17           equipment necessary to provide or improve intercity  
18           passenger rail transportation.

19           “(2) The Secretary shall require that a grant  
20           under this section be subject to the terms, condi-  
21           tions, requirements, and provisions the Secretary de-  
22           cides are necessary or appropriate for the purposes  
23           of this section, including requirements for the dis-  
24           position of net increases in value of real property re-  
25           sulting from the project assisted under this section

1 and shall prescribe procedures and schedules for the  
2 awarding of grants under this title, including appli-  
3 cation and qualification procedures and a record of  
4 decision on applicant eligibility. The Secretary shall  
5 issue a final rule establishing such procedures not  
6 later than 90 days after the date of enactment of  
7 the Passenger Rail Investment and Improvement  
8 Act of 2005.

9 “(b) PROJECT AS PART OF STATE RAIL PLAN.—

10 “(1) The Secretary may not approve a grant for  
11 a project under this section unless the Secretary  
12 finds that the project is part of a State rail plan de-  
13 veloped under chapter 225 of this title, or under the  
14 plan required by section 203 of the Passenger Rail  
15 Investment and Improvement Act of 2005, and that  
16 the applicant or recipient has or will have the legal,  
17 financial, and technical capacity to carry out the  
18 project, satisfactory continuing control over the use  
19 of the equipment or facilities, and the capability and  
20 willingness to maintain the equipment or facilities.

21 “(2) An applicant shall provide sufficient infor-  
22 mation upon which the Secretary can make the find-  
23 ings required by this subsection.

24 “(3) If an applicant has not selected the pro-  
25 posed operator of its service competitively, the appli-

1       cant shall provide written justification to the Sec-  
2       retary showing why the proposed operator is the  
3       best, taking into account price and other factors,  
4       and that use of the proposed operator will not un-  
5       necessarily increase the cost of the project.

6       “(c) PROJECT SELECTION CRITERIA.—The Sec-  
7       retary, in selecting the recipients of financial assistance  
8       to be provided under subsection (a), shall—

9               “(1) require that each proposed project meet all  
10       safety and security requirements that are applicable  
11       to the project under law;

12              “(2) give preference to projects with high levels  
13       of estimated ridership, increased on-time perform-  
14       ance, reduced trip time, additional service frequency  
15       to meet anticipated or existing demand, or other sig-  
16       nificant service enhancements as measured against  
17       minimum standards developed under section 208 of  
18       the Passenger Rail Investment and Improvement  
19       Act of 2005;

20              “(3) encourage intermodal connectivity through  
21       projects that provide direct connections between  
22       train stations, airports, bus terminals, subway sta-  
23       tions, ferry ports, and other modes of transpor-  
24       tation;

1           “(4) ensure that each project is compatible  
2 with, and is operated in conformance with—

3           “(A) plans developed pursuant to the re-  
4 quirements of section 135 of title 23, United  
5 States Code; and

6           “(B) the national rail plan (if it is avail-  
7 able); and

8           “(5) favor the following kinds of projects:

9           “(A) Projects that are expected to have a  
10 significant favorable impact on air or highway  
11 traffic congestion, capacity, or safety.

12           “(B) Projects that also improve freight or  
13 commuter rail operations.

14           “(C) Projects that have significant envi-  
15 ronmental benefits.

16           “(D) Projects that are—

17           “(i) at a stage of preparation that all  
18 pre-commencement compliance with envi-  
19 ronmental protection requirements has al-  
20 ready been completed; and

21           “(ii) ready to be commenced.

22           “(E) Projects with positive economic and  
23 employment impacts.

24           “(F) Projects that encourage the use of  
25 positive train control technologies.

1           “(G) Projects that have commitments of  
2           funding from non-Federal Government sources  
3           in a total amount that exceeds the minimum  
4           amount of the non-Federal contribution re-  
5           quired for the project.

6           “(H) Projects that involve donated prop-  
7           erty interests or services.

8           “(I) Projects that are identified by the  
9           Surface Transportation Board as necessary to  
10          improve the on time performance and reliability  
11          of intercity passenger rail under section  
12          24308(f).

13          “(d) AMTRAK ELIGIBILITY.—To receive a grant  
14          under this section, the National Railroad Passenger Cor-  
15          poration may enter into a cooperative agreement with 1  
16          or more States to carry out 1 or more projects on a State  
17          rail plan’s ranked list of rail capital projects developed  
18          under section 22504(a)(5) of this title.

19          “(e) LETTERS OF INTENT, FULL FUNDING GRANT  
20          AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-  
21          MENTS.—

22                 “(1)(A) The Secretary may issue a letter of in-  
23                 tent to an applicant announcing an intention to obli-  
24                 gate, for a major capital project under this section,  
25                 an amount from future available budget authority

1 specified in law that is not more than the amount  
2 stipulated as the financial participation of the Sec-  
3 retary in the project.

4 “(B) At least 30 days before issuing a let-  
5 ter under subparagraph (A) of this paragraph  
6 or entering into a full funding grant agreement,  
7 the Secretary shall notify in writing the Com-  
8 mittee on Transportation and Infrastructure of  
9 the House of Representatives and the Com-  
10 mittee on Commerce, Science, and Transpor-  
11 tation of the Senate and the House and Senate  
12 Committees on Appropriations of the proposed  
13 letter or agreement. The Secretary shall include  
14 with the notification a copy of the proposed let-  
15 ter or agreement as well as the evaluations and  
16 ratings for the project.

17 “(C) An obligation or administrative com-  
18 mitment may be made only when amounts are  
19 appropriated.

20 “(2)(A) The Secretary may make a full funding  
21 grant agreement with an applicant. The agreement  
22 shall—

23 “(i) establish the terms of participa-  
24 tion by the United States Government in a  
25 project under this section;

1           “(ii) establish the maximum amount  
2           of Government financial assistance for the  
3           project;

4           “(iii) cover the period of time for com-  
5           pleting the project, including a period ex-  
6           tending beyond the period of an authoriza-  
7           tion; and

8           “(iv) make timely and efficient man-  
9           agement of the project easier according to  
10          the law of the United States.

11          “(B) An agreement under this paragraph  
12          obligates an amount of available budget author-  
13          ity specified in law and may include a commit-  
14          ment, contingent on amounts to be specified in  
15          law in advance for commitments under this  
16          paragraph, to obligate an additional amount  
17          from future available budget authority specified  
18          in law. The agreement shall state that the con-  
19          tingent commitment is not an obligation of the  
20          Government and is subject to the availability of  
21          appropriations made by Federal law and to  
22          Federal laws in force on or enacted after the  
23          date of the contingent commitment. Interest  
24          and other financing costs of efficiently carrying  
25          out a part of the project within a reasonable

1 time are a cost of carrying out the project  
2 under a full funding grant agreement, except  
3 that eligible costs may not be more than the  
4 cost of the most favorable financing terms rea-  
5 sonably available for the project at the time of  
6 borrowing. The applicant shall certify, in a way  
7 satisfactory to the Secretary, that the applicant  
8 has shown reasonable diligence in seeking the  
9 most favorable financing terms.

10 “(3)(A) The Secretary may make an early sys-  
11 tems work agreement with an applicant if a record  
12 of decision under the National Environmental Policy  
13 Act of 1969 (42 U.S.C. 4321 et seq.) has been  
14 issued on the project and the Secretary finds there  
15 is reason to believe—

16 “(i) a full funding grant agreement  
17 for the project will be made; and

18 “(ii) the terms of the work agreement  
19 will promote ultimate completion of the  
20 project more rapidly and at less cost.

21 “(B) A work agreement under this para-  
22 graph obligates an amount of available budget  
23 authority specified in law and shall provide for  
24 reimbursement of preliminary costs of carrying  
25 out the project, including land acquisition, time-

1 ly procurement of system elements for which  
2 specifications are decided, and other activities  
3 the Secretary decides are appropriate to make  
4 efficient, long-term project management easier.  
5 A work agreement shall cover the period of time  
6 the Secretary considers appropriate. The period  
7 may extend beyond the period of current au-  
8 thorization. Interest and other financing costs  
9 of efficiently carrying out the work agreement  
10 within a reasonable time are a cost of carrying  
11 out the agreement, except that eligible costs  
12 may not be more than the cost of the most fa-  
13 vorable financing terms reasonably available for  
14 the project at the time of borrowing. The appli-  
15 cant shall certify, in a way satisfactory to the  
16 Secretary, that the applicant has shown reason-  
17 able diligence in seeking the most favorable fi-  
18 nancing terms. If an applicant does not carry  
19 out the project for reasons within the control of  
20 the applicant, the applicant shall repay all Gov-  
21 ernment payments made under the work agree-  
22 ment plus reasonable interest and penalty  
23 charges the Secretary establishes in the agree-  
24 ment.

1           “(4) The total estimated amount of future obli-  
2           gations of the Government and contingent commit-  
3           ments to incur obligations covered by all outstanding  
4           letters of intent, full funding grant agreements, and  
5           early systems work agreements may be not more  
6           than the amount authorized under section 101(c) of  
7           Passenger Rail Investment and Improvement Act of  
8           2005, less an amount the Secretary reasonably esti-  
9           mates is necessary for grants under this section not  
10          covered by a letter. The total amount covered by  
11          new letters and contingent commitments included in  
12          full funding grant agreements and early systems  
13          work agreements may be not more than a limitation  
14          specified in law.

15          “(f) FEDERAL SHARE OF NET PROJECT COST.—

16                 “(1)(A) Based on engineering studies, studies  
17                 of economic feasibility, and information on the ex-  
18                 pected use of equipment or facilities, the Secretary  
19                 shall estimate the net project cost.

20                 “(B) A grant for the project shall not ex-  
21                 ceed 80 percent of the project net capital cost.

22                 “(C) The Secretary shall give priority in  
23                 allocating future obligations and contingent  
24                 commitments to incur obligations to grant re-

1           quests seeking a lower Federal share of the  
2           project net capital cost.

3           “(2) Up to an additional 20 percent of the re-  
4           quired non-Federal funds may be funded from  
5           amounts appropriated to or made available to a de-  
6           partment or agency of the Federal Government that  
7           are eligible to be expended for transportation.

8           “(3) 50 percent of the average amounts ex-  
9           pended by a State or group of States (including the  
10          District of Columbia) for capital projects to benefit  
11          intercity passenger rail service in fiscal years 2003,  
12          2004, and 2005 shall be credited towards the match-  
13          ing requirements for grants awarded under this sec-  
14          tion. The Secretary may require such information as  
15          necessary to verify such expenditures.

16          “(4) 50 percent of the average amounts ex-  
17          pended by a State or group of States (including the  
18          District of Columbia) in a fiscal year beginning in  
19          2006 for capital projects to benefit intercity pas-  
20          senger rail service or for the operating costs of such  
21          service above the average of expenditures made for  
22          such service in fiscal years 2003, 2004, and 2005  
23          shall be credited towards the matching requirements  
24          for grants awarded under this section. The Secretary

1 may require such information as necessary to verify  
2 such expenditures.

3 “(g) UNDERTAKING PROJECTS IN ADVANCE.—

4 “(1) The Secretary may pay the Federal share  
5 of the net capital project cost to an applicant that  
6 carries out any part of a project described in this  
7 section according to all applicable procedures and re-  
8 quirements if—

9 “(A) the applicant applies for the payment;

10 “(B) the Secretary approves the payment;

11 and

12 “(C) before carrying out the part of the  
13 project, the Secretary approves the plans and  
14 specifications for the part in the same way as  
15 other projects under this section.

16 “(2) The cost of carrying out part of a project  
17 includes the amount of interest earned and payable  
18 on bonds issued by the applicant to the extent pro-  
19 ceeds of the bonds are expended in carrying out the  
20 part. However, the amount of interest under this  
21 paragraph may not be more than the most favorable  
22 interest terms reasonably available for the project at  
23 the time of borrowing. The applicant shall certify, in  
24 a manner satisfactory to the Secretary, that the ap-

1       plicant has shown reasonable diligence in seeking the  
2       most favorable financial terms.

3           “(3) The Secretary shall consider changes in  
4       capital project cost indices when determining the es-  
5       timated cost under paragraph (2) of this subsection.

6           “(h) 2-YEAR AVAILABILITY.—Funds appropriated  
7       under this section shall remain available until expended.  
8       If any amount provided as a grant under this section is  
9       not obligated or expended for the purposes described in  
10      subsection (a) within 2 years after the date on which the  
11      State received the grant, such sums shall be returned to  
12      the Secretary for other intercity passenger rail develop-  
13      ment projects under this section at the discretion of the  
14      Secretary.

15          “(i) PUBLIC-PRIVATE PARTNERSHIPS.—

16           “(1) IN GENERAL.—A metropolitan planning  
17      organization, State transportation department, or  
18      other project sponsor may enter into an agreement  
19      with any public, private, or nonprofit entity to coop-  
20      eratively implement any project funded with a grant  
21      under this title.

22           “(2) FORMS OF PARTICIPATION.—Participation  
23      by an entity under paragraph (1) may consist of—

1           “(A) ownership or operation of any land,  
2           facility, locomotive, rail car, vehicle, or other  
3           physical asset associated with the project;

4           “(B) cost-sharing of any project expense;

5           “(C) carrying out administration, construc-  
6           tion management, project management, project  
7           operation, or any other management or oper-  
8           ational duty associated with the project; and

9           “(D) any other form of participation ap-  
10          proved by the Secretary.

11          “(3) SUB-ALLOCATION.—A State may allocate  
12          funds under this section to any entity described in  
13          paragraph (1).

14          “(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—  
15          In carrying out this section, the Secretary shall allocate  
16          an appropriate portion of the amounts available under this  
17          section to provide grants to States—

18               “(1) in which there is no intercity passenger  
19               rail service for the purpose of funding freight rail  
20               capital projects that are on a State rail plan devel-  
21               oped under chapter 225 of this title that provide  
22               public benefits (as defined in chapter 225) as deter-  
23               mined by the Secretary; or

24               “(2) in which the rail transportation system is  
25               not physically connected to rail systems in the conti-

1        mental United States or may not otherwise qualify  
2        for a grant under this section due to the unique  
3        characteristics of the geography of that State or  
4        other relevant considerations, for the purpose of  
5        funding transportation-related capital projects.

6        “(k) SMALL CAPITAL PROJECTS.—The Secretary  
7        shall make available \$10,000,000 annually from the  
8        amounts authorized under section 101(c) of the Passenger  
9        Rail Investment and Improvement Act of 2005 beginning  
10       in fiscal year 2007 for grants for capital projects eligible  
11       under this section not exceeding \$2,000,000, including  
12       costs eligible under section 206(c) of that Act. The Sec-  
13       retary may wave requirements of this section, including  
14       state rail plan requirements, as appropriate.

15       **“§ 24403. Project management oversight**

16       “(a) PROJECT MANAGEMENT PLAN REQUIRE-  
17       MENTS.—To receive Federal financial assistance for a  
18       major capital project under this subchapter, an applicant  
19       must prepare and carry out a project management plan  
20       approved by the Secretary of Transportation. The plan  
21       shall provide for—

22                “(1) adequate recipient staff organization with  
23       well-defined reporting relationships, statements of  
24       functional responsibilities, job descriptions, and job  
25       qualifications;

1           “(2) a budget covering the project management  
2 organization, appropriate consultants, property ac-  
3 quisition, utility relocation, systems demonstration  
4 staff, audits, and miscellaneous payments the recipi-  
5 ent may be prepared to justify;

6           “(3) a construction schedule for the project;

7           “(4) a document control procedure and record-  
8 keeping system;

9           “(5) a change order procedure that includes a  
10 documented, systematic approach to handling the  
11 construction change orders;

12           “(6) organizational structures, management  
13 skills, and staffing levels required throughout the  
14 construction phase;

15           “(7) quality control and quality assurance func-  
16 tions, procedures, and responsibilities for construc-  
17 tion, system installation, and integration of system  
18 components;

19           “(8) material testing policies and procedures;

20           “(9) internal plan implementation and reporting  
21 requirements;

22           “(10) criteria and procedures to be used for  
23 testing the operational system or its major compo-  
24 nents;

1           “(11) periodic updates of the plan, especially  
2 related to project budget and project schedule, fi-  
3 nancing, and ridership estimates; and

4           “(12) the recipient’s commitment to submit a  
5 project budget and project schedule to the Secretary  
6 each month.

7           “(b) SECRETARIAL OVERSIGHT.—

8           “(1) The Secretary may use no more than 0.5  
9 percent of amounts made available in a fiscal year  
10 for capital projects under this subchapter to enter  
11 into contracts to oversee the construction of such  
12 projects.

13           “(2) The Secretary may use amounts available  
14 under paragraph (1) of this subsection to make con-  
15 tracts for safety, procurement, management, and fi-  
16 nancial compliance reviews and audits of a recipient  
17 of amounts under paragraph (1).

18           “(3) The Federal Government shall pay the en-  
19 tire cost of carrying out a contract under this sub-  
20 section.

21           “(c) ACCESS TO SITES AND RECORDS.—Each recipi-  
22 ent of assistance under this subchapter shall provide the  
23 Secretary and a contractor the Secretary chooses under  
24 subsection (c) of this section with access to the construc-

1 tion sites and records of the recipient when reasonably  
 2 necessary.

3 **“§ 24404. Use of capital grants to finance first-dollar**  
 4 **liability of grant project**

5 “Notwithstanding the requirements of section 24402  
 6 of this subchapter, the Secretary of Transportation may  
 7 approve the use of capital assistance under this sub-  
 8 chapter to fund self-insured retention of risk for the first  
 9 tier of liability insurance coverage for rail passenger serv-  
 10 ice associated with the capital assistance grant, but the  
 11 coverage may not exceed \$20,000,000 per occurrence or  
 12 \$20,000,000 in aggregate per year.

13 **“§ 24405. Grant conditions**

14 “(a) DOMESTIC BUYING PREFERENCE.—

15 “(1) REQUIREMENT.—

16 “(A) IN GENERAL.—In carrying out a  
 17 project funded in whole or in part with a grant  
 18 under this title, the grant recipient shall pur-  
 19 chase only—

20 “(i) unmanufactured articles, mate-  
 21 rial, and supplies mined or produced in the  
 22 United States; or

23 “(ii) manufactured articles, material,  
 24 and supplies manufactured in the United  
 25 States substantially from articles, material,

1                   and supplies mined, produced, or manufac-  
2                   tured in the United States.

3                   “(B) DE MINIMIS AMOUNT.—Subpara-  
4                   graph (1) applies only to a purchase in an total  
5                   amount that is not less than \$1,000,000.

6                   “(2) EXEMPTIONS.—On application of a recipi-  
7                   ent, the Secretary may exempt a recipient from the  
8                   requirements of this subsection if the Secretary de-  
9                   cides that, for particular articles, material, or  
10                  supplies—

11                  “(A) such requirements are inconsistent  
12                  with the public interest;

13                  “(B) the cost of imposing the requirements  
14                  is unreasonable; or

15                  “(C) the articles, material, or supplies, or  
16                  the articles, material, or supplies from which  
17                  they are manufactured, are not mined, pro-  
18                  duced, or manufactured in the United States in  
19                  sufficient and reasonably available commercial  
20                  quantities and are not of a satisfactory quality.

21                  “(3) UNITED STATES DEFINED.—In this sub-  
22                  section, the term ‘the United States’ means the  
23                  States, territories, and possessions of the United  
24                  States and the District of Columbia.

1           “(b) OPERATORS DEEMED RAIL CARRIERS AND EM-  
2 PLOYERS FOR CERTAIN PURPOSES.—A person that con-  
3 ducts rail operations over rail infrastructure constructed  
4 or improved with funding provided in whole or in part in  
5 a grant made under this title shall be considered a rail  
6 carrier as defined in section 10102(5) of this title for pur-  
7 poses of this title and any other statute that adopts the  
8 that definition or in which that definition applies,  
9 including—

10           “(1) the Railroad Retirement Act of 1974 (45  
11 U.S.C. 231 et seq.); and

12           “(2) the Railway Labor Act (43 U.S.C. 151 et  
13 seq.).

14           “(c) GRANT CONDITIONS.—The Secretary shall re-  
15 quire as a condition of making any grant under this title  
16 for a project that uses rights-of-way owned by a railroad  
17 that—

18           “(1) a written agreement exist between the ap-  
19 plicant and the railroad regarding such use and  
20 ownership, including—

21           “(A) any compensation for such use;

22           “(B) assurances regarding the adequacy of  
23 infrastructure capacity to accommodate both  
24 existing and future freight and passenger oper-  
25 ations; and

1           “(C) an assurance by the railroad that col-  
2           lective bargaining agreements with the rail-  
3           road’s employees (including terms regulating  
4           the contracting of work) will remain in full  
5           force and effect according to their terms for  
6           work performed by the railroad on the railroad  
7           transportation corridor;

8           “(D) an assurance that an applicant com-  
9           plies with liability requirements consistent with  
10          section 28103 of this title; and

11          “(2) the applicant agrees to comply with—

12                 “(A) the standards of section 24312 of this  
13                 title, as such section was in effect on September  
14                 1, 2003, with respect to the project in the same  
15                 manner that the National Railroad Passenger  
16                 Corporation is required to comply with those  
17                 standards for construction work financed under  
18                 an agreement made under section 24308(a) of  
19                 this title; and

20                 “(B) the protective arrangements estab-  
21                 lished under section 504 of the Railroad Revi-  
22                 talization and Regulatory Reform Act of 1976  
23                 (45 U.S.C. 836) with respect to employees af-  
24                 fected by actions taken in connection with the

1 project to be financed in whole or in part by  
2 grants under this subchapter.

3 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-  
4 Senger Rail Service.—

5 “(1) COLLECTIVE BARGAINING AGREEMENT  
6 FOR INTERCITY PASSENGER RAIL PROJECTS.—Any  
7 entity providing intercity passenger railroad trans-  
8 portation that begins operations after the date of en-  
9 actment of this Act on a project funded in whole or  
10 in part by grants made under this title and replaces  
11 intercity rail passenger service that was provided by  
12 Amtrak, unless such service was provided solely by  
13 Amtrak to another entity, as of such date shall enter  
14 into an agreement with the authorized bargaining  
15 agent or agents for adversely affected employees of  
16 the predecessor provider that—

17 “(A) gives each such qualified employee of  
18 the predecessor provider priority in hiring ac-  
19 cording to the employee’s seniority on the pred-  
20 ecessor provider for each position with the re-  
21 placing entity that is in the employee’s craft or  
22 class and is available within 3 years after the  
23 termination of the service being replaced;

24 “(B) establishes a procedure for notifying  
25 such an employee of such positions;

1           “(C) establishes a procedure for such an  
2 employee to apply for such positions; and

3           “(D) establishes rates of pay, rules, and  
4 working conditions.

5           “(2) IMMEDIATE REPLACEMENT SERVICE.—

6           “(A) NEGOTIATIONS.—If the replacement  
7 of preexisting intercity rail passenger service oc-  
8 curs concurrent with or within a reasonable  
9 time before the commencement of the replacing  
10 entity’s rail passenger service, the replacing en-  
11 tity shall give written notice of its plan to re-  
12 place existing rail passenger service to the au-  
13 thorized collective bargaining agent or agents  
14 for the potentially adversely affected employees  
15 of the predecessor provider at least 90 days be-  
16 fore the date on which it plans to commence  
17 service. Within 5 days after the date of receipt  
18 of such written notice, negotiations between the  
19 replacing entity and the collective bargaining  
20 agent or agents for the employees of the prede-  
21 cessor provider shall commence for the purpose  
22 of reaching agreement with respect to all mat-  
23 ters set forth in subparagraphs (A) through (D)  
24 of paragraph (1). The negotiations shall con-  
25 tinue for 30 days or until an agreement is

1 reached, whichever is sooner. If at the end of  
2 30 days the parties have not entered into an  
3 agreement with respect to all such matters, the  
4 unresolved issues shall be submitted for arbitra-  
5 tion in accordance with the procedure set forth  
6 in subparagraph (B).

7 “(B) ARBITRATION.—If an agreement has  
8 not been entered into with respect to all mat-  
9 ters set forth in subparagraphs (A) through (D)  
10 of paragraph (1) as described in subparagraph  
11 (A) of this paragraph, the parties shall select  
12 an arbitrator. If the parties are unable to agree  
13 upon the selection of such arbitrator within 5  
14 days, either or both parties shall notify the Na-  
15 tional Mediation Board, which shall provide a  
16 list of seven arbitrators with experience in arbi-  
17 trating rail labor protection disputes. Within 5  
18 days after such notification, the parties shall al-  
19 ternately strike names from the list until only  
20 1 name remains, and that person shall serve as  
21 the neutral arbitrator. Within 45 days after se-  
22 lection of the arbitrator, the arbitrator shall  
23 conduct a hearing on the dispute and shall  
24 render a decision with respect to the unresolved  
25 issues among the matters set forth in subpara-

1           graphs (A) through (D) of paragraph (1). This  
2           decision shall be final, binding, and conclusive  
3           upon the parties. The salary and expenses of  
4           the arbitrator shall be borne equally by the par-  
5           ties; all other expenses shall be paid by the  
6           party incurring them.

7           “(3) SERVICE COMMENCEMENT.—A replacing  
8           entity under this subsection shall commence service  
9           only after an agreement is entered into with respect  
10          to the matters set forth in subparagraphs (A)  
11          through (D) of paragraph (1) or the decision of the  
12          arbitrator has been rendered.

13          “(4) SUBSEQUENT REPLACEMENT OF SERV-  
14          ICE.—If the replacement of existing rail passenger  
15          service takes place within 3 years after the replacing  
16          entity commences intercity passenger rail service,  
17          the replacing entity and the collective bargaining  
18          agent or agents for the adversely affected employees  
19          of the predecessor provider shall enter into an agree-  
20          ment with respect to the matters set forth in sub-  
21          paragraphs (A) through (D) of paragraph (1). If the  
22          parties have not entered into an agreement with re-  
23          spect to all such matters within 60 days after the  
24          date on which the replacing entity replaces the pred-  
25          ecessor provider, the parties shall select an arbi-

1 trator using the procedures set forth in paragraph  
 2 (2)(B), who shall, within 20 days after the com-  
 3 mencement of the arbitration, conduct a hearing and  
 4 decide all unresolved issues. This decision shall be  
 5 final, binding, and conclusive upon the parties.

6 “(e) INAPPLICABILITY TO CERTAIN RAIL OPER-  
 7 ATIONS.— Nothing in this section applies to—

8 “(1) commuter rail passenger transportation  
 9 (as defined in section 24102(4) of this title) oper-  
 10 ations of a State or local government authority (as  
 11 those terms are defined in section 5302(11) and (6),  
 12 respectively, of this title) eligible to receive financial  
 13 assistance under section 5307 of this title, or to its  
 14 contractor performing services in connection with  
 15 commuter rail passenger operations (as so defined);

16 “(2) the Alaska Railroad or its contractors; or

17 “(3) the National Railroad Passenger Corpora-  
 18 tion’s access rights to railroad rights of way and fa-  
 19 cilities under current law.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) The table of chapters for the title is amend-  
 22 ed by inserting the following after the item relating  
 23 to chapter 243:

“244. Intercity passenger rail service capital assistance.....24401”.

1           “(2) The chapter analysis for subtitle V is  
2           amended by inserting the following after the item re-  
3           lating to chapter 243:

“244. Intercity passenger rail service capital assistance.....24401”.

4   **SEC. 302. STATE RAIL PLANS.**

5           (a) IN GENERAL.—Part B of subtitle V is amended  
6           by adding at the end the following:

“CHAPTER 225. STATE RAIL PLANS AND HIGH PRIORITY  
PROJECTS

“Sec.

“22501. Definitions

“22502. Authority

“22503. Purposes

“22504. Transparency; coordination; review

“22505. Content

“22506. Review

7   **“§ 22501. Definitions**

8           “In this subchapter:

9           “(1) PRIVATE BENEFIT.—

10           “(A) IN GENERAL.—The term ‘private  
11           benefit’—

12           “(i) means a benefit accrued to a per-  
13           son or private entity, other than the Na-  
14           tional Railroad Passenger Corporation,  
15           that directly improves the economic and  
16           competitive condition of that person or en-  
17           tity through improved assets, cost reduc-  
18           tions, service improvements, or any other  
19           means as defined by the Secretary; and

1                   “(ii) shall be determined on a project-  
2                   by-project basis, based upon an agreement  
3                   between the parties.

4                   “(B) CONSULTATION.—The Secretary may  
5                   seek the advice of the States and rail carriers  
6                   in further defining this term.

7                   “(2) PUBLIC BENEFIT.—

8                   “(A) IN GENERAL.—The term ‘public  
9                   benefit’—

10                   “(i) means a benefit accrued to the  
11                   public in the form of enhanced mobility of  
12                   people or goods, environmental protection  
13                   or enhancement, congestion mitigation, en-  
14                   hanced trade and economic development,  
15                   improved air quality or land use, more effi-  
16                   cient energy use, enhanced public safety or  
17                   security, reduction of public expenditures  
18                   due to improved transportation efficiency  
19                   or infrastructure preservation, and any  
20                   other positive community effects as defined  
21                   by the Secretary; and

22                   “(ii) shall be determined on a project-  
23                   by-project basis, based upon an agreement  
24                   between the parties.

1           “(B) CONSULTATION.—The Secretary may  
2           seek the advice of the States and rail carriers  
3           in further defining this term.

4           “(3) STATE.—The term ‘State’ means any of  
5           the 50 States and the District of Columbia.

6           “(4) STATE RAIL TRANSPORTATION AUTHOR-  
7           ITY.—The term ‘State rail transportation authority’  
8           means the State agency or official responsible under  
9           the direction of the Governor of the State or a State  
10          law for preparation, maintenance, coordination, and  
11          administration of the State rail plan.”.

12 **“§ 22502. Authority**

13          “(a) IN GENERAL.—Each State may prepare and  
14          maintain a State rail plan in accordance with the provi-  
15          sions of this subchapter.

16          “(b) REQUIREMENTS.—For the preparation and peri-  
17          odic revision of a State rail plan, a State shall—

18                 “(1) establish or designate a State rail trans-  
19                 portation authority to prepare, maintain, coordinate,  
20                 and administer the plan;

21                 “(2) establish or designate a State rail plan ap-  
22                 proval authority to approve the plan;

23                 “(3) submit the State’s approved plan to the  
24                 Secretary of Transportation for review; and

1           “(4) revise and resubmit a State-approved plan  
2           no less frequently than once every 5 years for re-  
3           approval by the Secretary.

4   **“§ 22503. Purposes**

5           “(a) PURPOSES.—The purposes of a State rail plan  
6           are as follows:

7           “(1) To set forth State policy involving freight  
8           and passenger rail transportation, including com-  
9           muter rail operations, in the State.

10           “(2) To establish the period covered by the  
11           State rail plan.

12           “(3) To present priorities and strategies to en-  
13           hance rail service in the State that benefits the pub-  
14           lic.

15           “(4) To serve as the basis for Federal and  
16           State rail investments within the State.

17           “(b) COORDINATION.—A State rail plan shall be co-  
18           ordinated with other State transportation planning goals  
19           and programs and set forth rail transportation’s role with-  
20           in the State transportation system.

21   **“§ 22504. Transparency; coordination; review**

22           “(a) PREPARATION.—A State shall provide adequate  
23           and reasonable notice and opportunity for comment and  
24           other input to the public, rail carriers, commuter and tran-  
25           sit authorities operating in, or affected by rail operations

1 within the State, units of local government, and other in-  
 2 terested parties in the preparation and review of its State  
 3 rail plan.

4 “(b) INTERGOVERNMENTAL COORDINATION.—A  
 5 State shall review the freight and passenger rail service  
 6 activities and initiatives by regional planning agencies, re-  
 7 gional transportation authorities, and municipalities with-  
 8 in the State, or in the region in which the State is located,  
 9 while preparing the plan, and shall include any rec-  
 10 ommendations made by such agencies, authorities, and  
 11 municipalities as deemed appropriate by the State.

12 **“§ 22505. Content**

13 “(a) IN GENERAL.—Each State rail plan shall con-  
 14 tain the following:

15 “(1) An inventory of the existing overall rail  
 16 transportation system and rail services and facilities  
 17 within the State and an analysis of the role of rail  
 18 transportation within the State’s surface transpor-  
 19 tation system.

20 “(2) A review of all rail lines within the State,  
 21 including proposed high speed rail corridors and sig-  
 22 nificant rail line segments not currently in service.

23 “(3) A statement of the State’s passenger rail  
 24 service objectives, including minimum service levels,  
 25 for rail transportation routes in the State.

1           “(4) A general analysis of rail’s transportation,  
2           economic, and environmental impacts in the State,  
3           including congestion mitigation, trade and economic  
4           development, air quality, land-use, energy-use, and  
5           community impacts.

6           “(5) A long-range rail investment program for  
7           current and future freight and passenger infrastruc-  
8           ture in the State that meets the requirements of  
9           subsection (b).

10           “(6) A statement of public financing issues for  
11           rail projects and service in the State, including a list  
12           of current and prospective public capital and oper-  
13           ating funding resources, public subsidies, State tax-  
14           ation, and other financial policies relating to rail in-  
15           frastructure development.

16           “(7) An identification of rail infrastructure  
17           issues within the State that reflects consultation  
18           with all relevant stake holders.

19           “(8) A review of major passenger and freight  
20           intermodal rail connections and facilities within the  
21           State, including seaports, and prioritized options to  
22           maximize service integration and efficiency between  
23           rail and other modes of transportation within the  
24           State.

1           “(9) A review of publicly funded projects within  
2 the State to improve rail transportation safety and  
3 security, including all major projects funded under  
4 section 130 of title 23.

5           “(10) A performance evaluation of passenger  
6 rail services operating in the State, including pos-  
7 sible improvements in those services, and a descrip-  
8 tion of strategies to achieve those improvements.

9           “(11) A compilation of studies and reports on  
10 high-speed rail corridor development within the  
11 State not included in a previous plan under this sub-  
12 chapter, and a plan for funding any recommended  
13 development of such corridors in the State.

14           “(12) A statement that the State is in compli-  
15 ance with the requirements of section 22102.

16           “(b) LONG-RANGE SERVICE AND INVESTMENT PRO-  
17 GRAM.—

18           “(1) PROGRAM CONTENT.—A long-range rail  
19 investment program included in a State rail plan  
20 under subsection (a)(5) shall include the following  
21 matters:

22           “(A) A list of any rail capital projects ex-  
23 pected to be undertaken or supported in whole  
24 or in part by the State.

1           “(B) A detailed funding plan for those  
2 projects.

3           “(2) PROJECT LIST CONTENT.—The list of rail  
4 capital projects shall contain—

5           “(A) a description of the anticipated public  
6 and private benefits of each such project; and

7           “(B) a statement of the correlation  
8 between—

9           “(i) public funding contributions for  
10 the projects; and

11           “(ii) the public benefits.

12           “(3) CONSIDERATIONS FOR PROJECT LIST.—In  
13 preparing the list of freight and intercity passenger  
14 rail capital projects, a State rail transportation au-  
15 thority should take into consideration the following  
16 matters:

17           “(A) Contributions made by non-Federal  
18 and non-State sources through user fees,  
19 matching funds, or other private capital involve-  
20 ment.

21           “(B) Rail capacity and congestion effects.

22           “(C) Effects on highway, aviation, and  
23 maritime capacity, congestion, or safety.

24           “(D) Regional balance.

25           “(E) Environmental impact.

1 “(F) Economic and employment impacts.

2 “(G) Projected ridership and other service  
3 measures for passenger rail projects.

4 **“§ 22506. Review**

5 The Secretary shall prescribe procedures for States  
6 to submit State rail plans for review under this title, in-  
7 cluding standardized format and data requirements. State  
8 rail plans completed before the date of enactment of the  
9 Passenger Rail Investment and Improvement Act of 2005  
10 that substantially meet the requirements of this chapter,  
11 as determined by the Secretary, shall be deemed by the  
12 Secretary to have met the requirements of this chapter”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) The table of chapters for the title is amend-  
15 ed by inserting the following after the item relating  
16 to chapter 223:

“225. State rail plans .....22501”.

17 “(2) The chapter analysis for subtitle V is  
18 amended by inserting the following after the item re-  
19 lating to chapter 223:

“225. State rail plans .....24401”.

20 **SEC. 303. NEXT GENERATION CORRIDOR TRAIN EQUIP-**  
21 **MENT POOL.**

22 (a) IN GENERAL.—Within 180 days after the date  
23 of enactment of this Act, Amtrak shall establish a Next  
24 Generation Corridor Equipment Pool Committee, com-

1 prised of representatives of Amtrak, the Federal Railroad  
2 Administration, and interested States. The purpose of the  
3 Committee shall be to design, develop specifications for,  
4 and procure standardized next-generation corridor equip-  
5 ment.

6 (b) FUNCTIONS.—The Committee may—

7 (1) determine the number of different types of  
8 equipment required, taking into account variations  
9 in operational needs and corridor infrastructure;

10 (2) establish a pool of equipment to be used on  
11 corridor routes funded by participating States; and

12 (3) subject to agreements between Amtrak and  
13 States, utilize services provided by Amtrak to design,  
14 maintain and remanufacture equipment.

15 (c) COOPERATIVE AGREEMENTS.—Amtrak and  
16 States participating in the Committee may enter into  
17 agreements for the funding, procurement, remanufacture,  
18 ownership and management of corridor equipment, includ-  
19 ing equipment currently owned or leased by Amtrak and  
20 next-generation corridor equipment acquired as a result  
21 of the Committee's actions, and may establish a corpora-  
22 tion, which may be owned or jointly-owned by Amtrak,  
23 participating States or other entities, to perform these  
24 functions.

1 (d) FUNDING.—In addition to the authorization pro-  
 2 vided in section 105 of this division, capital projects to  
 3 carry out the purposes of this section shall be eligible for  
 4 grants made pursuant to chapter 244 of title 49, United  
 5 States Code.

6 **SEC. 304. FEDERAL RAIL POLICY.**

7 Section 103 is amended—

8 (1) by inserting “IN GENERAL.—” before “The  
 9 Federal” in subsection (a);

10 (2) by striking the second and third sentences  
 11 of subsection (a);

12 (3) by inserting “ADMINISTRATOR.—” before  
 13 “The head” in subsection (b);

14 (4) by redesignating subsections (c), (d), and  
 15 (e) as subsections (d), (e), and (f), respectively and  
 16 by inserting after subsection (b) the following:

17 “(c) SAFETY.—To carry out all railroad safety laws  
 18 of the United States, the Administration is divided on a  
 19 geographical basis into at least 8 safety offices. The Sec-  
 20 retary of Transportation is responsible for all acts taken  
 21 under those laws and for ensuring that the laws are uni-  
 22 formly administered and enforced among the safety of-  
 23 fices.”;

24 (5) by inserting “POWERS AND DUTIES.—” be-  
 25 fore “The” in subsection (d), as redesignated;

1           (6) by striking “and” after the semicolon in  
2 paragraph (1) of subsection (d), as redesignated;

3           (7) by redesignating paragraph (2) of sub-  
4 section (d), as redesignated, as paragraph (3) and  
5 inserting after paragraph (1) the following:

6           “(2) the duties and powers related to railroad  
7 policy and development under subsection (e); and”;

8           (8) by inserting “TRANSFERS OF DUTY.—” be-  
9 fore “A duty” in subsection (e), as redesignated;

10          (9) by inserting “CONTRACTS, GRANTS, LEASES,  
11 COOPERATIVE AGREEMENTS, AND SIMILAR TRANS-  
12 ACTIONS.—” before “Subject” in subsection (f), as  
13 redesignated;

14          (10) by striking the last sentence in subsection  
15 (f), as redesignated; and

16          (11) by adding at the end the following:

17          “(g) ADDITIONAL DUTIES OF THE ADMINIS-  
18 TRATOR.—The Administrator shall—

19           “(1) provide assistance to States in developing  
20 State rail plans prepared under chapter 225 and re-  
21 view all State rail plans submitted under that sec-  
22 tion;

23           “(2) develop a long range national rail plan  
24 that is consistent with approved State rail plans and  
25 the rail needs of the Nation, as determined by the

1 Secretary in order to promote an integrated, cohe-  
2 sive, efficient, and optimized national rail system for  
3 the movement of goods and people;

4 “(3) develop a preliminary national rail plan  
5 within a year after the date of enactment of the Pas-  
6 senger Rail Investment and Improvement Act of  
7 2005;

8 “(4) develop and enhance partnerships with the  
9 freight and passenger railroad industry, States, and  
10 the public concerning rail development;

11 “(5) support rail intermodal development and  
12 high-speed rail development, including high speed  
13 rail planning;

14 “(6) ensure that programs and initiatives devel-  
15 oped under this section benefit the public and work  
16 toward achieving regional and national transpor-  
17 tation goals; and

18 “(7) facilitate and coordinate efforts to assist  
19 freight and passenger rail carriers, transit agencies  
20 and authorities, municipalities, and States in pas-  
21 senger-freight service integration on shared rights of  
22 way by providing neutral assistance at the joint re-  
23 quest of affected rail service providers and infra-  
24 structure owners relating to operations and capacity  
25 analysis, capital requirements, operating costs, and

1 other research and planning related to corridors  
2 shared by passenger or commuter rail service and  
3 freight rail operations.

4 “(h) PERFORMANCE GOALS AND REPORTS.—

5 “(1) PERFORMANCE GOALS.—In conjunction  
6 with the objectives established and activities under-  
7 taken under section 103(e) of this title, the Adminis-  
8 trator shall develop a schedule for achieving specific,  
9 measurable performance goals.

10 “(2) RESOURCE NEEDS.—The strategy and an-  
11 nual plans shall include estimates of the funds and  
12 staff resources needed to accomplish each goal and  
13 the additional duties required under section 103(e).

14 “(3) SUBMISSION WITH PRESIDENT’S BUDG-  
15 ET.—Beginning with fiscal year 2007 and each fis-  
16 cal year thereafter, the Secretary shall submit to  
17 Congress, at the same time as the President’s budg-  
18 et submission, the Administration’s performance  
19 goals and schedule developed under paragraph (1),  
20 including an assessment of the progress of the Ad-  
21 ministration toward achieving its performance  
22 goals.”.

23 **SEC. 305. RAIL COOPERATIVE RESEARCH PROGRAM.**

24 (a) ESTABLISHMENT AND CONTENT.—Chapter 249  
25 is amended by adding at the end the following:

1 **“§ 24910. Rail cooperative research program**

2 “(a) IN GENERAL.—The Secretary shall establish  
3 and carry out a rail cooperative research program. The  
4 program shall—

5 “(1) address, among other matters, intercity  
6 rail passenger and freight rail services, including ex-  
7 isting rail passenger and freight technologies and  
8 speeds, incrementally enhanced rail systems and in-  
9 frastructure, and new high-speed wheel-on-rail sys-  
10 tems and rail security;

11 “(2) address ways to expand the transportation  
12 of international trade traffic by rail, enhance the ef-  
13 ficiency of intermodal interchange at ports and other  
14 intermodal terminals, and increase capacity and  
15 availability of rail service for seasonal freight needs;

16 “(3) consider research on the interconnected-  
17 ness of commuter rail, passenger rail, freight rail,  
18 and other rail networks; and

19 “(4) give consideration to regional concerns re-  
20 garding rail passenger and freight transportation,  
21 including meeting research needs common to des-  
22 ignated high-speed corridors, long-distance rail serv-  
23 ices, and regional intercity rail corridors, projects,  
24 and entities.

25 “(b) CONTENT.—The program to be carried out  
26 under this section shall include research designed—

1           “(1) to identify the unique aspects and at-  
2           tributes of rail passenger and freight service;

3           “(2) to develop more accurate models for evalu-  
4           ating the impact of rail passenger and freight serv-  
5           ice, including the effects on highway and airport and  
6           airway congestion, environmental quality, and energy  
7           consumption;

8           “(3) to develop a better understanding of modal  
9           choice as it affects rail passenger and freight trans-  
10          portation, including development of better models to  
11          predict utilization;

12          “(4) to recommend priorities for technology  
13          demonstration and development;

14          “(5) to meet additional priorities as determined  
15          by the advisory board established under subsection  
16          (c), including any recommendations made by the Na-  
17          tional Research Council;

18          “(6) to explore improvements in management,  
19          financing, and institutional structures;

20          “(7) to address rail capacity constraints that  
21          affect passenger and freight rail service through a  
22          wide variety of options, ranging from operating im-  
23          provements to dedicated new infrastructure, taking  
24          into account the impact of such options on oper-  
25          ations;

1           “(8) to improve maintenance, operations, cus-  
2           tomer service, or other aspects of intercity rail pas-  
3           senger and freight service;

4           “(9) to recommend objective methodologies for  
5           determining intercity passenger rail routes and serv-  
6           ices, including the establishment of new routes, the  
7           elimination of existing routes, and the contraction or  
8           expansion of services or frequencies over such  
9           routes;

10          “(10) to review the impact of equipment and  
11          operational safety standards on the further develop-  
12          ment of high speed passenger rail operations con-  
13          nected to or integrated with non-high speed freight  
14          or passenger rail operations; and

15          “(11) to recommend any legislative or regu-  
16          latory changes necessary to foster further develop-  
17          ment and implementation of high speed passenger  
18          rail operations while ensuring the safety of such op-  
19          erations that are connected to or integrated with  
20          non-high speed freight or passenger rail operations.

21          “(c) ADVISORY BOARD.—

22          “(1) ESTABLISHMENT.—In consultation with  
23          the heads of appropriate Federal departments and  
24          agencies, the Secretary shall establish an advisory  
25          board to recommend research, technology, and tech-

1 nology transfer activities related to rail passenger  
2 and freight transportation.

3 “(2) MEMBERSHIP.—The advisory board shall  
4 include—

5 “(A) representatives of State transpor-  
6 tation agencies;

7 “(B) transportation and environmental  
8 economists, scientists, and engineers; and

9 “(C) representatives of Amtrak, the Alaska  
10 Railroad, freight railroads, transit operating  
11 agencies, intercity rail passenger agencies, rail-  
12 way labor organizations, and environmental or-  
13 ganizations.

14 “(d) NATIONAL ACADEMY OF SCIENCES.— The Sec-  
15 retary may make grants to, and enter into cooperative  
16 agreements with, the National Academy of Sciences to  
17 carry out such activities relating to the research, tech-  
18 nology, and technology transfer activities described in sub-  
19 section (b) as the Secretary deems appropriate.”.

20 (b) CLERICAL AMENDMENT.—The chapter analysis  
21 for chapter 249 is amended by adding at the end the fol-  
22 lowing:

“24910. Rail cooperative research program”.

1           **TITLE IV—PASSENGER RAIL**  
2                   **SECURITY AND SAFETY**

3   **SEC. 401. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

4           (a) IN GENERAL—Subject to subsection (c) the Sec-  
5   retary of Homeland Security, in consultation with the Sec-  
6   retary of Transportation, is authorized to make grants to  
7   Amtrak—

8           (1) to secure major tunnel access points and en-  
9   sure tunnel integrity in New York, Baltimore, and  
10   Washington, DC;

11           (2) to secure Amtrak trains;

12           (3) to secure Amtrak stations;

13           (4) to obtain a watch list identification system  
14   approved by the Secretary;

15           (5) to obtain train tracking and interoperable  
16   communications systems that are coordinated to the  
17   maximum extent possible;

18           (6) to hire additional police and security offi-  
19   cers, including canine units;

20           (7) to expand emergency preparedness efforts;

21   and

22           (8) for employee security training.

23           (b) CONDITIONS.—The Secretary of Transportation  
24   shall disburse funds to Amtrak provided under subsection  
25   (a) for projects contained in a systemwide security plan

1 approved by the Secretary of Homeland Security. The  
2 plan shall include appropriate measures to address secu-  
3 rity awareness, emergency response, and passenger evacu-  
4 ation training.

5 (c) **EQUITABLE GEOGRAPHIC ALLOCATION.**—The  
6 Secretary shall ensure that, subject to meeting the highest  
7 security needs on Amtrak’s entire system, stations and fa-  
8 cilities located outside of the Northeast Corridor receive  
9 an equitable share of the security funds authorized by this  
10 section.

11 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There  
12 are authorized to be appropriated to the Secretary of  
13 Homeland Security to carry out this section—

- 14 (1) \$63,500,000 for fiscal year 2006;  
15 (2) \$30,000,000 for fiscal year 2007; and  
16 (3) \$30,000,000 for fiscal year 2008.

17 Amounts appropriated pursuant to this subsection shall  
18 remain available until expended.

19 **SEC. 402. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

20 (a) **LIFE-SAFETY NEEDS.**—The Secretary of Trans-  
21 portation is authorized to make grants to Amtrak for the  
22 purpose of making fire and life-safety improvements to  
23 Amtrak tunnels on the Northeast Corridor in New York,  
24 NY, Baltimore, MD, and Washington, DC.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Secretary of  
3 Transportation for the purposes of carrying out subsection  
4 (a) the following amounts:

5 (1) For the 6 New York tunnels to provide ven-  
6 tilation, electrical, and fire safety technology up-  
7 grades, emergency communication and lighting sys-  
8 tems, and emergency access and egress for  
9 passengers—

10 (A) \$190,000,000 for fiscal year 2006;

11 (B) \$190,000,000 for fiscal year 2007;

12 (C) \$190,000,000 for fiscal year 2008;

13 (2) For the Baltimore & Potomac tunnel and  
14 the Union tunnel, together, to provide adequate  
15 drainage, ventilation, communication, lighting, and  
16 passenger egress upgrades—

17 (A) \$19,000,000 for fiscal year 2006;

18 (B) \$19,000,000 for fiscal year 2007;

19 (C) \$19,000,000 for fiscal year 2008;

20 (3) For the Washington, DC, Union Station  
21 tunnels to improve ventilation, communication, light-  
22 ing, and passenger egress upgrades—

23 (A) \$13,333,000 for fiscal year 2006;

24 (B) \$13,333,000 for fiscal year 2007;

25 (C) \$13,333,000 for fiscal year 2008;

1 (c) INFRASTRUCTURE UPGRADES.—There are au-  
2 thorized to be appropriated to the Secretary of Transpor-  
3 tation for fiscal year 2006 \$3,000,000 for the preliminary  
4 design of options for a new tunnel on a different alignment  
5 to augment the capacity of the existing Baltimore tunnels.

6 (d) AVAILABILITY OF APPROPRIATED FUNDS.—  
7 Amounts made available pursuant to this section shall re-  
8 main available until expended.

9 (e) PLANS REQUIRED.—The Secretary may not make  
10 amounts available to Amtrak for obligation or expenditure  
11 under subsection (a)—

12 (1) until Amtrak has submitted to the Sec-  
13 retary, and the Secretary has approved, an engineer-  
14 ing and financial plan for such projects; and

15 (2) unless, for each project funded pursuant to  
16 this section, the Secretary has approved a project  
17 management plan prepared by Amtrak addressing  
18 appropriate project budget, construction schedule,  
19 recipient staff organization, document control and  
20 record keeping, change order procedure, quality con-  
21 trol and assurance, periodic plan updates, and peri-  
22 odic status reports.

23 (f) REVIEW OF PLANS.—The Secretary of Transpor-  
24 tation shall complete the review of the plans required by  
25 paragraphs (1) and (2) of subsection (e) and approve or

1 disapprove the plans within 45 days after the date on  
2 which each such plan is submitted by Amtrak. If the Sec-  
3 retary determines that a plan is incomplete or deficient,  
4 the Secretary shall notify Amtrak of the incomplete items  
5 or deficiencies and Amtrak shall, within 30 days after re-  
6 ceiving the Secretary's notification, submit a modified  
7 plan for the Secretary's review. Within 15 days after re-  
8 ceiving additional information on items previously included  
9 in the plan, and within 45 days after receiving items newly  
10 included in a modified plan, the Secretary shall either ap-  
11 prove the modified plan, or, if the Secretary finds the plan  
12 is still incomplete or deficient, the Secretary shall identify  
13 in writing to the Senate Committee on Commerce, Science,  
14 and Transportation and the House of Representatives  
15 Committee on Transportation and Infrastructure the por-  
16 tions of the plan the Secretary finds incomplete or defi-  
17 cient, approve all other portions of the plan, obligate the  
18 funds associated with those other portions, and execute  
19 an agreement with Amtrak within 15 days thereafter on  
20 a process for resolving the remaining portions of the plan.

21 (g) FINANCIAL CONTRIBUTION FROM OTHER TUN-  
22 NEL USERS.—The Secretary shall, taking into account the  
23 need for the timely completion of all portions of the tunnel  
24 projects described in subsection (a)—

1           (1) consider the extent to which rail carriers  
2           other than Amtrak use or plan to use the tunnels;

3           (2) consider the feasibility of seeking a financial  
4           contribution from those other rail carriers toward  
5           the costs of the projects; and

6           (3) obtain financial contributions or commit-  
7           ments from such other rail carriers at levels reflect-  
8           ing the extent of their use or planned use of the tun-  
9           nels, if feasible.

10 **SEC. 403. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**  
11 **SENGERS INVOLVED IN RAIL PASSENGER AC-**  
12 **CIDENTS.**

13           (a) IN GENERAL.—Chapter 243 of title 49, United  
14 States Code, is amended by adding at the end the fol-  
15 lowing:

16 **“§ 24316. Plans to address needs of families of pas-**  
17 **sengers involved in rail passenger acci-**  
18 **dents**

19           “(a) SUBMISSION OF PLAN.—Not later than 6  
20 months after the date of the enactment of the Passenger  
21 Rail Investment and Improvement Act of 2005, Amtrak  
22 shall submit to the Chairman of the National Transpor-  
23 tation Safety Board and the Secretary of Transportation  
24 a plan for addressing the needs of the families of pas-

1 sengers involved in any rail passenger accident involving  
2 an Amtrak intercity train and resulting in a loss of life.

3 “(b) CONTENTS OF PLANS.—The plan to be sub-  
4 mitted by Amtrak under subsection (a) shall include, at  
5 a minimum, the following:

6 “(1) A process by which Amtrak will maintain  
7 and provide to the National Transportation Safety  
8 Board and the Secretary of Transportation, imme-  
9 diately upon request, a list (which is based on the  
10 best available information at the time of the request)  
11 of the names of the passengers aboard the train  
12 (whether or not such names have been verified), and  
13 will periodically update the list. The plan shall in-  
14 clude a procedure, with respect to unreserved trains  
15 and passengers not holding reservations on other  
16 trains, for Amtrak to use reasonable efforts to ascer-  
17 tain the number and names of passengers aboard a  
18 train involved in an accident.

19 “(2) A plan for creating and publicizing a reli-  
20 able, toll-free telephone number within 4 hours after  
21 such an accident occurs, and for providing staff, to  
22 handle calls from the families of the passengers.

23 “(3) A process for notifying the families of the  
24 passengers, before providing any public notice of the

1 names of the passengers, by suitably trained individ-  
2 uals.

3 “(4) A process for providing the notice de-  
4 scribed in paragraph (2) to the family of a pas-  
5 senger as soon as Amtrak has verified that the pas-  
6 senger was aboard the train (whether or not the  
7 names of all of the passengers have been verified).

8 “(5) A process by which the family of each pas-  
9 senger will be consulted about the disposition of all  
10 remains and personal effects of the passenger within  
11 Amtrak’s control; that any possession of the pas-  
12 senger within Amtrak’s control will be returned to  
13 the family unless the possession is needed for the ac-  
14 cident investigation or any criminal investigation;  
15 and that any unclaimed possession of a passenger  
16 within Amtrak’s control will be retained by the rail  
17 passenger carrier for at least 18 months.

18 “(6) A process by which the treatment of the  
19 families of nonrevenue passengers will be the same  
20 as the treatment of the families of revenue pas-  
21 sengers.

22 “(7) An assurance that Amtrak will provide  
23 adequate training to its employees and agents to  
24 meet the needs of survivors and family members fol-  
25 lowing an accident.

1       “(c) USE OF INFORMATION.—The National Trans-  
2 portation Safety Board, the Secretary of Transportation,  
3 and Amtrak may not release to any person information  
4 on a list obtained under subsection (b)(1) but may provide  
5 information on the list about a passenger to the family  
6 of the passenger to the extent that the Board or Amtrak  
7 considers appropriate.

8       “(d) LIMITATION ON LIABILITY.—Amtrak shall not  
9 be liable for damages in any action brought in a Federal  
10 or State court arising out of the performance of Amtrak  
11 in preparing or providing a passenger list, or in providing  
12 information concerning a train reservation, pursuant to a  
13 plan submitted by Amtrak under subsection (b), unless  
14 such liability was caused by Amtrak’s conduct.

15       “(e) LIMITATION ON STATUTORY CONSTRUCTION.—  
16 Nothing in this section may be construed as limiting the  
17 actions that Amtrak may take, or the obligations that Am-  
18 trak may have, in providing assistance to the families of  
19 passengers involved in a rail passenger accident.

20       “(f) FUNDING.—There are authorized to be appro-  
21 priated to the Secretary of Transportation for the use of  
22 Amtrak \$500,000 for fiscal year 2006 to carry out this  
23 section. Amounts made available pursuant to this sub-  
24 section shall remain available until expended.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-  
2 ysis for chapter 243 of title 49, United States Code, is  
3 amended by adding at the end the following:

“24316. Plan to assist families of passengers involved in rail passenger acci-  
dents.”.

4 **SEC. 404. NORTHERN BORDER RAIL PASSENGER REPORT.**

5 Within 180 days after the date of enactment of this  
6 Act, the Secretary of Transportation, in consultation with  
7 the Secretary of Homeland Security, the Assistant Sec-  
8 retary of Homeland Security (Transportation Security Ad-  
9 ministration), heads of other appropriate Federal depart-  
10 ments, and agencies and the National Railroad Passenger  
11 Corporation, shall transmit a report to the Senate Com-  
12 mittee on Commerce, Science, and Transportation and the  
13 House of Representatives Committee on Transportation  
14 and Infrastructure that contains—

15 (1) a description of the current system for  
16 screening passengers and baggage on passenger rail  
17 service between the United States and Canada;

18 (2) an assessment of the current program to  
19 provide preclearance of airline passengers between  
20 the United States and Canada as outlined in “The  
21 Agreement on Air Transport Preclearance between  
22 the Government of Canada and the Government of  
23 the United States of America”, dated January 18,  
24 2001;

1           (3) an assessment of the current program to  
2 provide preclearance of freight railroad traffic be-  
3 tween the United States and Canada as outlined in  
4 the “Declaration of Principle for the Improved Secu-  
5 rity of Rail Shipments by Canadian National Rail-  
6 way and Canadian Pacific Railway from Canada to  
7 the United States”, dated April 2, 2003;

8           (4) information on progress by the Department  
9 of Homeland Security and other Federal agencies to-  
10 wards finalizing a bilateral protocol with Canada  
11 that would provide for preclearance of passengers on  
12 trains operating between the United States and Can-  
13 ada;

14           (5) a description of legislative, regulatory,  
15 budgetary, or policy barriers within the United  
16 States Government to providing pre-screened pas-  
17 senger lists for rail passengers traveling between the  
18 United States and Canada to the Department of  
19 Homeland Security;

20           (6) a description of the position of the Govern-  
21 ment of Canada and relevant Canadian agencies  
22 with respect to preclearance of such passengers;

23           (7) a draft of any changes in existing Federal  
24 law necessary to provide for pre-screening of such

1 passengers and providing pre-screened passenger  
2 lists to the Department of Homeland Security; and

3 (8) an analysis of the feasibility of reinstating  
4 United States Customs and Border Patrol rolling in-  
5 spections onboard international Amtrak trains.

6 **SEC. 405. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

7 (a) REQUIREMENT FOR STUDY AND REPORT.—The  
8 Secretary of Homeland Security, in cooperation with the  
9 Secretary of Transportation through the Assistant Sec-  
10 retary of Homeland Security (Transportation Security Ad-  
11 ministration) and other appropriate agencies, shall—

12 (1) study the cost and feasibility of requiring  
13 security screening for passengers, baggage, and  
14 cargo on passenger trains including an analysis of  
15 any passenger train screening pilot programs under-  
16 taken by the Department of Homeland Security; and

17 (2) report the results of the study, together  
18 with any recommendations that the Secretary of  
19 Homeland Security may have for implementing a  
20 rail security screening program to the Senate Com-  
21 mittee on Commerce, Science, and Transportation  
22 and the House of Representatives Committee on  
23 Transportation and Infrastructure within 1 year  
24 after the date of enactment of this Act.

1       (b) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Secretary of  
3 Homeland Security \$1,000,000 for fiscal year 2006 to  
4 carry out this section.

Passed the Senate November 3, 2005.

Attest:

*Secretary.*

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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**S. 1932**

**AN ACT**

To provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).